

Matheson, W. B. Driscoll, W. E. Robinson, Edward S. Kellogg, Charles Allione, and Frank O. Eaton, of Bronx, N. Y.; Edward Beister, of Wakefield, N. Y., and Robert McKechnie, George Goode, Anthony Lindenmyer, B. W. Lyman, Edward Schlueter, Edward J. Casey, Morton B. Connelly, Emil Schoemmel, A. B. Burt, John J. Farrell, E. McCormick, and Charles Weiss, of New York City, for exemption of labor unions from the operations of the Sherman antitrust law, for the Pearre bill regulating injunctions, for the employers' liability act, and for the eight-hour law—to the Committee on the Judiciary.

By Mr. LAWRENCE: Petitions of citizens of Holyoke, Mass., and Local Union No. 155, International Brotherhood of Stationary Firemen, of Lee, Mass., for amendment to Sherman antitrust law, and for Pearre bill, employers' liability bill, and eight-hour law—to the Committee on the Judiciary.

By Mr. LORIMER: Petition of Brotherhood of Railway Trainmen, for the Rodenberg anti-injunction bill and the Hemmway-Graff safety ash-pan bill—to the Committee on Interstate and Foreign Commerce.

By Mr. LINDBERGH: Petition of Anton Funk, John M. Taylor, and August Spengler, of Brainerd, Minn., for legislation to prevent President or Cabinet officers from taking active part in behalf of any candidate for the nomination for President by any political party—to the Committee on the Judiciary.

By Mr. LINDSAY: Petition of United Harbor, No. 1, American Association of Masters, Mates, and Pilots of New York, favoring Senate joint resolution 40, for carrying Government supplies in American bottoms—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Stephen E. A. Weinberg, on behalf of many persons, to secure the flag that was on Lawrence's ship in 1812—to the Committee on Naval Affairs.

Also, petition of Young Folks' Hebrew Association, favoring the Littlefield original-package bill and kindred legislation—to the Committee on the Judiciary.

By Mr. JONES of Washington: Petition of citizens of Washington and Oregon, for exemption of labor unions from the operations of the Sherman antitrust law, for the Pearre bill regulating injunctions, for the employers' liability act, and for the eight-hour law—to the Committee on the Judiciary.

Also, petition of various labor organizations of Washington, for amendment to Sherman antitrust law, Wilson bill (H. R. 20584), the Pearre bill (H. R. 94), employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

By Mr. McHENRY: Petitions of Granges Nos. 570, 194, 900, 1201, 1242, 1161, 899, 705, 131, and 1340, all of the State of Pennsylvania, favoring H. R. 12682, for financial legislation to secure depositors against bank failures (McHenry bill)—to the Committee on Banking and Currency.

Also, petitions of East Benton Grange and Granges Nos. 516, 1355, 1285, 1223, 1087, 1236, 1218, 1225, and 1042, all of the State of Pennsylvania favoring H. R. 12682, to safeguard people's savings against bank failures—to the Committee on Banking and Currency.

By Mr. McLAUGHLIN of Michigan: Paper to accompany bill for relief of Rachel Ringler—to the Committee on Invalid Pensions.

By Mr. POWERS: Petition of citizens of Bangor, Me., for the amendment to the Sherman antitrust law known as the "Wilson bill" (H. R. 20584), for the Pearre bill (H. R. 94), the employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

By Mr. PRAY: Petitions of Trades and Labor Assembly of Helena, Mont.; E. R. Torrey and other citizens of Butte, Mont., and Union No. 744, Brotherhood of Carpenters and Joiners of America, of Red Lodge, Mont., for the exemption of labor unions from the operations of the Sherman antitrust law, for the Pearre bill regulating injunctions, for the employers' liability act, and for the eight-hour law—to the Committee on the Judiciary.

By Mr. RAINEY: Petition of Western Society of Engineers, for legislation conserving natural resources of the country—to the Committee on Agriculture.

Also, petition of Retail Merchants' Association of Illinois, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. SULZER: Petition of E. D. Stodder, of Atlantic City, for legislation to conserve the natural resources of the country—to the Committee on Agriculture.

Also, petition of Robert E. Jackson and others, for legislation to prevent the President or Cabinet officers from taking active part in behalf of any candidate for the nomination for President by any political party—to the Committee on the Judiciary.

Also, petition of Trades League of Philadelphia, favoring the Fowler credit currency bill—to the Committee on Banking and Currency.

Also, petition of Charles Hall Davis, favoring H. R. 21263—to the Committee on the Post-Office and Post-Roads.

By Mr. TIRRELL: Petition of George S. Knapp and others, for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. WEISSE: Petition of Oshkosh Chamber of Commerce, for legislation along the line of conservation of the natural resources of the country—to the Committee on Agriculture.

By Mr. WOOD: Petition of D. J. Swaner, of Trenton, N. J., for legislation to modify the Sherman antitrust law, to establish employers' liability, to regulate the issuance of injunctions, and to extend the eight-hour law—to the Committee on the Judiciary.

Also, paper to accompany bill for relief of Asa Smith—to the Committee on Invalid Pensions.

## SENATE.

SATURDAY, May 16, 1908.

Prayer by Rev. ULYSSES G. B. PIERCE, of the city of Washington.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. BRANDEGEE and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

### FOREST-SERVICE EMPLOYEES.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of Agriculture transmitting, in response to a resolution of the 24th ultimo, a statement of the attendance of members of the Forest Service at meetings and conventions during the year 1907, which, with the accompanying paper, was ordered to lie on the table and be printed.

### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 21871) to amend the national banking laws, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. VREELAND, Mr. BURTON of Ohio, Mr. WEEKS, Mr. GLASS, and Mr. PUJO managers at the conference on the part of the House.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H. R. 20120) to authorize the construction of a railroad siding to the United States navy-yard, and for other purposes, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. MOORE of Pennsylvania, Mr. FOSTER of Indiana, and Mr. MURPHY of Wisconsin managers at the conference on the part of the House.

The message further announced that the House had disagreed to the amendment of the Senate to the bill (H. R. 17506) to amend an act entitled "An act to simplify the laws in relation to the collection of the revenues," approved June 10, 1890, as amended by the act entitled "An act to provide revenues for the Government and to encourage the industries of the United States," approved July 24, 1897, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. PAYNE, Mr. DALZELL, and Mr. UNDERWOOD managers at the conference on the part of the House.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 21260) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1909, and for other purposes, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. TAWNEY, Mr. SMITH of Iowa, and Mr. FITZGERALD managers at the conference on the part of the House.

The message further announced that the House had agreed to the amendments of the Senate to the following bills, each with an amendment, in which it requested the concurrence of the Senate:

H. R. 1062. An act granting an increase of pension to Charles C. Weaver; and

H. R. 1991. An act granting an increase of pension to Jerry Murphy.

### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the Vice-President:

H. R. 5297. An act to complete the naval record of John Shaughnessy;

H. R. 11560. An act relating to unpaid Hawaiian Postal Savings Bank deposits;

H. R. 17005. An act authorizing the Secretary of the Interior to issue patents in fee to the Board of Missions of the Protestant Episcopal Church for certain lands in the State of Idaho; and

H. J. Res. 178. Joint resolution for appointment of members of Board of Managers of the National Home for Disabled Volunteer Soldiers.

#### PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented sundry petitions of citizens of Seattle, Wash., praying for the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which were referred to the Committee on the Judiciary.

Mr. PLATT presented the memorial of J. W. Wuppermann, of New York City, N. Y., remonstrating against the enactment of legislation to prohibit the manufacture and sale of intoxicating liquors in the District of Columbia, which was ordered to lie on the table.

He also presented a memorial of the Collar and Shirt Manufacturers' Association of Troy, N. Y., remonstrating against the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which was referred to the Committee on the Judiciary.

He also presented a memorial of the National Brick Manufacturers' Association of Corning, N. Y., and a memorial of the Horseheads Brick Company, of Horseheads, N. Y., remonstrating against an appropriation being made for the development of the use of concrete as a building material, which was referred to the Committee on Manufactures.

He also presented a petition of sundry citizens of Buffalo, N. Y., praying for the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which was referred to the Committee on the Judiciary.

He also presented a petition of the Business Men's Association of Auburn, N. Y., praying for the ratification of a reciprocal trade treaty between the United States and France, which was referred to the Committee on Foreign Relations.

He also presented a petition of Local Lodge No. 99, Brotherhood of Locomotive Engineers, of Rochester, N. Y., and petition of the International Convention, Brotherhood of Locomotive Engineers, of Columbus, Ohio, praying for the enactment of legislation requiring railroad companies to equip their locomotives with automatic self-dumping and self-cleaning ash pans, which was referred to the Committee on Interstate Commerce.

Mr. OWEN presented a concurrent resolution of the legislature of Oklahoma, which was referred to the Committee on Public Health and National Quarantine and ordered to be printed in the RECORD, as follows:

#### House concurrent resolution 13.

Whereas the growth and spread of consumption or tuberculosis—commonly known as the "white plague"—in some parts of the United States is becoming prevalently prevalent; and

Whereas it is now generally accepted as a fact that this dread disease can be communicated from one person to another, by the healthy person inhaling the diseased breath of the consumptive and also by inhaling dried expectorations carried by the wind; and

Whereas separation of the consumptively afflicted from the well and healthy is one of the best ways and means of preventing the spread of the disease, and to benefit the ailing; Therefore be it

Resolved by the senate and house of representatives of the legislative assembly of the State of Oklahoma, That the Government of the United States be requested, and the United States is hereby requested, to take early action looking toward the procurement by purchase or cession from the State of Texas, in the arid regions thereof, or Territory of Arizona, a tract of land at least 18 miles square, to be used for a consumptives' home and sanitarium; that the United States is hereby requested to reclaim said tract of land by wells or otherwise, so as to make the same productive, thereby affording the unfortunate an opportunity for profitable outdoor employment in the way of gardening, raising poultry, and engaging in other light enterprises to assist them in earning a competency and as an aid to mind employment at the same time.

That the United States be requested to cut said reserve into small tracts and to improve the same, and to place the same in a cheerful, homelike condition, as far as possible, in order that the unfortunate may find that relief that is awaiting him in the dry, recuperating, health-giving atmosphere of the dry regions above named.

That a copy of these resolutions be forwarded to the President of the United States, to the President of the United States Senate, and to the Speaker of the House of Representatives.

WM. H. MURRAY,  
Speaker of the House of Representatives.  
GEO. W. BELLAMY,  
President of the Senate.

Mr. OWEN presented petitions of sundry citizens of Ardmore and Shawnee, and of Local Union No. 302, International Hod Carriers and Brick Layers' Union of America, of Tulsa, all in the State of Oklahoma, praying for the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which were referred to the Committee on the Judiciary.

Mr. CLARK of Wyoming presented petitions of sundry citizens of Hanna, Rock Springs, and Evanston, in the State of

Wyoming, praying for the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which were referred to the Committee on the Judiciary.

Mr. McLAURIN presented a petition of sundry citizens of Washington County, Miss., praying for the enactment of legislation for the relief of Henry L. Blake and others, which was referred to the Committee on Claims.

Mr. McCREARY presented a petition of sundry citizens of Owensboro, Ky., praying for the adoption of certain amendments to the so-called "Sherman antitrust law," relating to labor organizations, which was referred to the Committee on the Judiciary.

Mr. SUTHERLAND presented a petition of Local Union No. 3, Bricklayers and Masons' Union of America, of Ogden, Utah, and a petition of Local Union No. 184, United Brotherhood of Carpenters and Joiners of America, of Salt Lake City, Utah, praying for the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which were referred to the Committee on the Judiciary.

Mr. FRYE presented petitions of sundry citizens of Anson and Madison, in the State of Maine, praying for the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which were referred to the Committee on the Judiciary.

Mr. PILES presented petitions of Journeymen Plumbers' Union No. 32, of Seattle; of Local Union No. 300, Brotherhood of Painters, Decorators, and Paperhangers of America, of Seattle; of Local Union No. 2610, United Mine Workers of America, of Ravensdale; of Pattern Makers' Union, of Tacoma, and of Local Union No. 71, Journeymen Tailors' Union of America, of Seattle, all in the State of Washington, praying for the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which were referred to the Committee on the Judiciary.

He also (for Mr. ANKENY) presented petitions of the American League of Independent Workmen, of Tacoma, Wash., and of sundry citizens of Bellingham and Seattle, Wash., praying for the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which were referred to the Committee on the Judiciary.

He also (for Mr. ANKENY) presented a memorial of the Vulcan Iron Works, of Seattle, Wash., remonstrating against the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which was referred to the Committee on the Judiciary.

Mr. PENROSE presented a petition of Local Union No. 86, International Typographical Union, of Reading, Pa., praying for the repeal of the duty on white paper, wood pulp, and the materials used in the manufacture thereof, which was referred to the Committee on Finance.

He also presented a petition of the Trades Assembly of Washington, Pa., praying that at least one of the new battle ships be constructed at a Government navy-yard, which was ordered to lie on the table.

He also presented a memorial of Ingham Post, No. 91, Department of Pennsylvania, Grand Army of the Republic, of Canton, Pa., remonstrating against placing a statue of Gen. Robert E. Lee, late of the Southern Confederacy, in Statuary Hall, in the National Capitol, Washington, D. C., which was referred to the Committee on the Library.

Mr. HALE presented a petition of sundry citizens of Madison, Me., praying for the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which was referred to the Committee on the Judiciary.

Mr. PERKINS presented the memorial of J. D. Spreckels & Bros. Company of San Francisco, Cal., remonstrating against the enactment of legislation amending the laws relating to transportation between ports of the Territory of Hawaii and other ports of the United States, which was referred to the Committee on Commerce.

Mr. RICHARDSON presented a petition of the Woman's Christian Temperance Union of Milton, Del., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors, which was ordered to lie on the table.

Mr. HOPKINS presented petitions of sundry citizens and labor organizations of Granite City, Chicago, Peoria, Centralia, and Edwardsville, all in the State of Illinois, praying for the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which were referred to the Committee on the Judiciary.

He also presented a petition of the congregation of the African Methodist Episcopal Church, of Normal, Ill., praying for the enactment of legislation to limit the effect of the regula-



tions of commerce between the several States and with foreign countries in certain cases, which was referred to the Committee on the Judiciary.

He also presented a memorial of sundry citizens of Granite City, Ill., remonstrating against the enactment of legislation to extend the right of naturalization, which was referred to the Committee on Immigration.

He also presented a petition of the Civic Improvement Association of Upper Alton, Ill., praying for the enactment of legislation providing for the conservation of the natural resources of the country, which was referred to the Committee on Forest Reservations and the Protection of Game.

Mr. GALLINGER presented petitions of sundry citizens of Thornton and Woodstock, in the State of New Hampshire, praying for the passage of the so-called "rural parcels-post bill," which were referred to the Committee on Post-Offices and Post-Roads.

He also presented petitions of sundry citizens of Rochester, N. H., praying for the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which were referred to the Committee on the Judiciary.

He also presented a petition of J. E. Irvine, of Washington, D. C., praying for the enactment of legislation providing for the suppression of usury in the District of Columbia, which was referred to the Committee on the District of Columbia.

He also presented a memorial of the Surety Loan Company, the Reliance Loan and Trust Company, and the Metropolitan Loan and Trust Company, of Washington, D. C., remonstrating against the enactment of legislation to amend the Code of Law for the District of Columbia with regard to the receipt of usurious interest, which was referred to the Committee on the District of Columbia.

Mr. DEPEW presented memorials of sundry citizens and business firms of New York City, Brooklyn, Rochester, Syracuse, Buffalo, Watertown, Binghamton, Ogdensburg, Utica, Lockport, Troy, and Oneonta, all in the State of New York, remonstrating against the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens and labor organizations of Yonkers, Albion, Elmira, Brooklyn, Hadley, Utica, Albany, Syracuse, Salamanca, all in the State of New York, praying for the adoption of certain amendments to the so-called "Sherman antitrust law" relating to labor organizations, which were referred to the Committee on the Judiciary.

#### REPORTS OF COMMITTEES.

Mr. PLATT, from the Committee on Printing, to whom was referred the amendment submitted by Mr. HEYBURN on the 7th instant, proposing to appropriate \$1,500 to pay C. E. Alden for services rendered and assistance employed in preparing an index to the compilation of rules and regulations governing the various Executive Departments, etc., intended to be proposed to the general deficiency appropriation bill, reported favorably thereon and moved that it be referred to the Committee on Appropriations and printed, which was agreed to.

Mr. DILLINGHAM, from the Committee on the District of Columbia, to whom were referred the following bills, reported them severally without amendment and submitted reports thereon:

A bill (S. 6495) to provide for the incorporation of banks within the District of Columbia (Report No. 664); and

A bill (S. 6413) to limit the period for refunding taxes and assessments erroneously paid (Report No. 665).

Mr. CURTIS, from the Committee on Indian Affairs, to whom was referred the bill (S. 4482) to amend section 18 of an act, approved April 26, 1906, entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," reported adversely thereon and the bill was postponed indefinitely.

Mr. TELLER, from the Select Committee on the Five Civilized Tribes, reported an amendment providing for the transmission by the Secretary of the Treasury and the Secretary of the Interior to the Public Printer either the original or a true and correct copy of the original of each and every roll of the Choctaw and Chickasaw Indians now in the possession and custody of either of these Departments, etc., intended to be proposed to the general deficiency appropriation bill, and moved that it be printed and referred to the Committee on Appropriations, which was agreed to.

#### INVESTIGATIONS BY COMMITTEE ON FINANCE.

Mr. ALDRICH, from the Committee on Finance, reported the following resolution, which was considered by unanimous consent and agreed to:

*Resolved*, That the Committee on Finance are authorized, in connection with investigations heretofore ordered by the Senate, with the

view of promptly securing the information necessary for an intelligent revision of the customs laws of the United States, to call to their assistance experts in the Executive Departments of the Government and to employ such other assistants as they shall require; and they are especially directed to report what further legislation is necessary to secure equitable treatment for the agricultural and other products of the United States in foreign countries; and they shall also, in the consideration of changes of rates, secure proof of the relative cost of production in this and in principal competing foreign countries of the various articles affected by the tariff upon which changes in rates of duty are desirable.

#### BILLS INTRODUCED.

Mr. DILLINGHAM introduced a bill (S. 7128) to give the Court of Claims jurisdiction to hear and determine claims for the payment of medical expenses of sick officers and enlisted men of the Army while absent from duty with leave or on furlough, which was read twice by its title and referred to the Committee on the Judiciary.

Mr. CRANE introduced a bill (S. 7129) for the relief of the heirs and legal representatives of Thomas F. Norton, deceased, which was read twice by its title and referred to the Committee on Claims.

Mr. OWEN introduced the following bills, which were severally read twice by their titles and referred to the Committee on Pensions:

A bill (S. 7130) granting a pension to George Bond; and

A bill (S. 7131) granting a pension to Thomas Miles.

Mr. GUGGENHEIM introduced a bill (S. 7132) granting a pension to John G. Schempp, which was read twice by its title and, with the accompanying papers, referred to the Committee on Pensions.

Mr. SMITH of Maryland introduced a bill (S. 7133) for the relief of the estate of George Lloyd Raley, which was read twice by its title and referred to the Committee on Claims.

Mr. DICK introduced the following bills, which were severally read twice by their titles and referred to the Committee on Public Buildings and Grounds:

A bill (S. 7134) providing for the erection of a public building at Norwalk, Ohio; and

A bill (S. 7135) providing for the purchase of a site and the erection thereon of a public building at Defiance, in the State of Ohio.

Mr. MONEY introduced a bill (S. 7136) for the relief of the estate of Phereby R. Sheppard, deceased, which was read twice by its title and referred to the Committee on Claims.

Mr. CURTIS (for Mr. McCUMBER) introduced a bill (S. 7137) for the relief of James W. Brown and others, which was read twice by its title and, with the accompanying papers, referred to the Committee on Claims.

Mr. GARY introduced a bill (S. 7138) for the relief of Win-yah Lodge, No. 40, Ancient Free and Accepted Masons, of South Carolina, which was read twice by its title and referred to the Committee on Claims.

Mr. PENROSE introduced a bill (S. 7139) for the purchase of a site for a Federal building for the United States post-office at Kittanning, Pa., which was read twice by its title and referred to the Committee on Public Buildings and Grounds.

Mr. ALLISON introduced the following bills, which were severally read twice by their titles and referred to the Committee on Pensions:

A bill (S. 7140) granting an increase of pension to William N. Watson;

A bill (S. 7141) granting an increase of pension to John M. Ryan;

A bill (S. 7142) granting a pension to Harriet B. Duncan;

A bill (S. 7143) granting an increase of pension to Charles Moritz; and

A bill (S. 7144) granting an increase of pension to William A. York.

Mr. OVERMAN introduced a bill (S. 7145) granting an increase of pension to John Smith, which was read twice by its title and referred to the Committee on Pensions.

Mr. FOSTER introduced the following bills, which were severally read twice by their titles and referred to the Committee on Claims:

A bill (S. 7146) for the relief of Mrs. Maria Barron; and

A bill (S. 7147) for the relief of Leonidas P. Hebart.

Mr. McLAURIN introduced a bill (S. 7148) for the relief of the estate of Calvin Tilley, which was read twice by its title and referred to the Committee on Claims.

Mr. SMOOT introduced a bill (S. 7149) granting a pension to Nannie M. Lowe, which was read twice by its title and referred to the Committee on Pensions.

#### AMENDMENTS TO DEFICIENCY APPROPRIATION BILL.

Mr. CURTIS submitted an amendment proposing to appropriate \$1,000 to pay N. M. Wakefield for services rendered in preparing a tracer of legislation and notifying the members of the Senate of the movements of the Senate bills, intended to

be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. HEYBURN submitted an amendment proposing to appropriate \$150 to pay John K. White for extra services rendered as clerk and stenographer to the Capitol police board, intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. SMOOT submitted an amendment proposing to appropriate \$300 to pay Charles M. Morris for extra clerical service for editing and compiling the testimony taken before the Joint Committee on Patents, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

#### AMENDMENTS TO OMNIBUS PUBLIC-BUILDINGS BILL.

Mr. NIXON submitted two amendments intended to be proposed by him to the omnibus public-buildings bill, which were referred to the Committee on Public Buildings and Grounds and ordered to be printed.

Mr. BACON submitted an amendment intended to be proposed by him to the omnibus public-buildings bill, which was referred to the Committee on Public Buildings and Grounds and ordered to be printed.

Mr. PAYNTER submitted two amendments intended to be proposed by him to the omnibus public-buildings bill, which were referred to the Committee on Public Buildings and Grounds and ordered to be printed.

Mr. DICK submitted an amendment intended to be proposed by him to the omnibus public-buildings bill, which was referred to the Committee on Public Buildings and Grounds and ordered to be printed.

Mr. OWEN submitted an amendment intended to be proposed by him to the omnibus public-buildings bill, which was referred to the Committee on Public Buildings and Grounds and ordered to be printed.

Mr. SUTHERLAND submitted an amendment intended to be proposed by him to the omnibus public-buildings bill, which was referred to the Committee on Public Buildings and Grounds and ordered to be printed.

Mr. MARTIN submitted an amendment intended to be proposed by him to the omnibus public-buildings bill, which was referred to the Committee on Public Buildings and Grounds and ordered to be printed.

Mr. CURTIS submitted an amendment intended to be proposed by him to the omnibus public-buildings bill, which was referred to the Committee on Public Buildings and Grounds and ordered to be printed.

Mr. LONG submitted an amendment intended to be proposed by him to the omnibus public-buildings bill, which was referred to the Committee on Public Buildings and Grounds and ordered to be printed.

Mr. PENROSE submitted an amendment intended to be proposed by him to the omnibus public-buildings bill, which was referred to the Committee on Public Buildings and Grounds and ordered to be printed.

Mr. OVERMAN (for Mr. TAYLOR) submitted an amendment intended to be proposed to the omnibus public-buildings bill, which was referred to the Committee on Public Buildings and Grounds and ordered to be printed.

Mr. BULKELEY submitted an amendment intended to be proposed by him to the omnibus public-buildings bill, which was referred to the Committee on Public Buildings and Grounds and ordered to be printed.

Mr. MARTIN submitted an amendment intended to be proposed by him to the omnibus public-buildings bill, which was referred to the Committee on Public Buildings and Grounds and ordered to be printed.

Mr. DICK submitted two amendments intended to be proposed by him to the omnibus public-buildings bill, which were referred to the Committee on Public Buildings and Grounds and ordered to be printed.

Mr. NELSON submitted an amendment intended to be proposed by him to the omnibus public-buildings bill, which was referred to the Committee on Public Buildings and Grounds and ordered to be printed.

Mr. DEPEW submitted three amendments intended to be proposed by him to the omnibus public-buildings bill, which were referred to the Committee on Public Buildings and Grounds and ordered to be printed.

#### WITHDRAWAL OF PAPERS—FRANCES BIGLOW.

On motion of Mr. ALLISON, it was

Ordered, That there may be withdrawn from the files of the Senate the papers in the case of S. 3118, Fifty-ninth Congress, first session, granting a pension to Francis Biglow, there having been no adverse report thereon.

#### DISBURSEMENT OF INDIAN FUNDS.

Mr. OWEN submitted the following resolution, which was considered by unanimous consent and agreed to:

*Resolved*, That the Secretary of the Interior be, and he is hereby, directed to cause to be prepared and to transmit to the Senate a detailed statement showing all revenues of every kind and character collected and all funds from all sources received and credited to each of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes since June 28, 1898, and the disbursements made from the funds of said tribes, severally, with the authority therefor since said date.

#### EMPLOYMENT OF STENOGRAPHER.

Mr. FLINT submitted the following resolution, which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

*Resolved*, That the Committee on Irrigation be, and the same is hereby, authorized to employ a stenographer from time to time, as may be necessary, to report such hearings as may be had on bills or other matters pending before said committee, and that such stenographer be paid out of the contingent fund of the Senate.

#### CHARLES C. WEAVER.

The VICE-PRESIDENT laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H. R. 1062) granting an increase of pension to Charles C. Weaver, which, on motion of Mr. SMOOT, was with the bill referred to the Committee on Pensions.

#### JERRY MURPHY.

The VICE-PRESIDENT laid before the Senate the amendment of the House of Representatives to the amendments of the Senate to the bill (H. R. 1991) granting an increase of pension to Jerry Murphy, which, on motion of Mr. SMOOT, was with the bill referred to the Committee on Pensions.

#### SUNDRY CIVIL APPROPRIATION BILL.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 21260) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1909, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ALLISON. I move that the Senate insist upon its amendments, agree to the conference asked for by the House of Representatives, and that the conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to, and Mr. ALLISON, Mr. HALE, and Mr. TELLER were appointed as the conferees on the part of the Senate.

#### RAILROAD SIDING AT WASHINGTON NAVY-YARD.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendment of the Senate to the bill (H. R. 20120) to authorize the construction of a railroad siding to the United States navy-yard, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. CARTER. I move that the Senate insist upon its amendment, agree to the conference asked for by the House of Representatives, and that the conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to, and Mr. CARTER, Mr. BURKETT, and Mr. MARTIN were appointed as the conferees on the part of the Senate.

#### COLLECTION OF REVENUE.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendment of the Senate to the bill (H. R. 17506) to amend an act entitled "An act to simplify the laws in relation to the collection of revenues," approved June 10, 1890, as amended by an act entitled "An act to provide revenues for the Government and to encourage the industries of the United States," approved July 24, 1897, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ALDRICH. I move that the Senate insist on its amendment, agree to the conference asked for by the House of Representatives, and that the conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to, and Mr. ALDRICH, Mr. ALLISON, and Mr. DANIEL were appointed as the conferees on the part of the Senate.

#### DIPLOMATIC AND CONSULAR APPROPRIATION BILL.

Mr. HALE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 20345) making appropriations for the diplomatic and consular service for the fiscal year ending June 30, 1909, having met,



after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3 and 8.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 4, 5, 6, 7, 9, 11, and 12.

And agree to same.

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows: Strike out the matter inserted by said amendment and strike out the amended paragraph and insert in lieu thereof the following:

"Secretary of legation to Salvador and consul-general to San Salvador, two thousand dollars; and the provision in the act of May 11, 1908, for a consul-general at San Salvador is hereby repealed."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"For salaries of consuls-general and consuls, as provided in the act approved May 11, 1908, entitled 'An act to amend an act entitled "An act to provide for the reorganization of the consular service of the United States," approved April 5, 1906,' as follows: Consuls-general, three hundred and three thousand dollars; consuls, seven hundred and thirty-three thousand dollars; in all, one million and thirty-six thousand dollars.

"For salaries of five consular inspectors, at five thousand dollars each, twenty-five thousand dollars."

And the Senate agree to the same.

EUGENE HALE,

S. M. CULLOM,

A. S. CLAY,

*Managers on the part of the Senate.*

C. B. LANDIS,

J. B. PERKINS,

WILLIAM M. HOWARD,

*Managers on the part of the House.*

The report was agreed to.

#### POSTAL SAVINGS BANKS.

Mr. BRANDEGEE. I move that the Senate proceed to the consideration of the bill (S. 4825) for acquiring national forests in the Southern Appalachian Mountains and White Mountains.

Mr. CARTER. Mr. President, yesterday evening I gave notice that I would reserve the right to move to take up the bill (S. 6484) to establish postal savings banks for depositing savings at interest, with the security of the Government for repayment thereof, and for other purposes. I am very anxious that that bill shall be accorded consideration.

Since yesterday evening's session I have been advised by several Senators of their desire to be heard on the bill, and I realize that at least two of the Senators desiring to address the Senate on the bill during its consideration are so situated with reference to the business of the Senate as to render it quite difficult if not impossible to prepare or to take the time to address the Senate on the subject during the few remaining days of the present session.

I feel, however, that the Senate is entitled to the privilege of voting on this measure. According to my view, there is a distinct majority in the body in favor of it. I do not at the same time desire to work a hardship on any Senator nor seek to violate a usage which has become sacred in the Chamber of allowing Senators a reasonable time to prepare for an address or speech on any bill.

To the end that ample time may be allowed to all Senators who desire to study the bill and to address the Senate upon it, and at the same time make some progress, I ask unanimous consent that the 11th day of January be fixed for a vote on all amendments then pending and on the bill, the final vote to be taken before adjournment on that day.

Mr. HOPKINS. Mr. President, the Senator from Montana the other day made a very clear explanation of the various provisions of the bill. The subject-matter of the bill has been before the public and before Congress for several sessions. I sincerely hope that the Senator who has charge of the bill can make some arrangement with Senators who desire to speak upon it to have those speeches made at the present session, so that a vote can be taken before Congress adjourns.

Mr. HALE. Mr. President, I think the Senator from Montana is proceeding in the right way to get a vote on his bill during the present Congress. Whatever may be the feeling of a majority of the Senate, there are a good many Senators

who are opposed to the bill who desire to debate it, and will debate it to the best of their faculty whenever it comes up.

It is a literal impossibility to carry out the suggestion of the Senator from Illinois and get a vote upon this most important and contested measure at the present session. If Congress is to adjourn, as I hope we may, on one of the later days of next week, we can not precipitate into the business of the Senate any such contested measure as this and give it anything like fair consideration. I do not speak for myself alone, but for other Senators who are opposed to the measure and who will debate it when it comes up.

But the Senator is entitled to bring the matter before the Senate during this Congress, and I think his suggestion is a wise one. I shall not object for one to a day being fixed—the day the Senator fixes or any day that suits him—when the matter shall be taken up and disposed of after discussion by the Senate. But I think I am entitled to say, knowing something about the condition of the business and the desires of Senators to adjourn, that it would be impossible to give this measure any proper consideration in the remnant that is left us of the present session.

Mr. BRANDEGEE. Mr. President, I wish to make a parliamentary inquiry. I had made a motion to proceed to the consideration of Senate bill 4825, and doubtless that motion is not debatable. If the Senator from Montana will allow my motion to be put, I will then yield to him for the purpose of making his request.

Mr. CARTER. I trust the Senator from Connecticut will bear in mind—

Mr. TELLER. Mr. President, if there is to be any general agreement about the bill, I hope it will be so stated that we on this side of the Chamber may know what it is. I do not believe anyone on this side knows what the Senator from Montana is asking.

The VICE-PRESIDENT. Does the Senator from Connecticut object to the request of the Senator from Montana?

Mr. BRANDEGEE. I will withhold my motion for the present and see if the request can be agreed to.

Mr. MARTIN. Mr. President, I think it requires very exceptional circumstances to justify the Senate in fixing at one session what business it will take up at another session. This is a very important measure, and it is impossible for us to foresee now whether it can have proper consideration and the Senate will be ready for a vote upon it at the time mentioned. I am constrained, under the circumstances, to object.

The VICE-PRESIDENT. Objection is made to the request of the Senator from Montana.

Mr. HALE. Let me suggest to the Senator from Montana that he move that the bill shall be made a special order for the day named. Then when that time comes the Senate can deal with it as it does with all matters, and when the Senate wants a vote, it is the pride of the Senate that it can say it always gets a vote. The Senator in that way will avoid the objection raised by the Senator from Virginia.

Mr. CARTER. I would prefer making the special order applicable to an earlier date. I, therefore, move that the postal savings-bank bill be made the special order for the second Monday in December.

Mr. HALE. That does not interfere with the special order already made?

Mr. CARTER. No.

The VICE-PRESIDENT. The Senator from Montana moves that the bill (S. 6484) to establish postal savings banks for depositing savings at interest, with the security of the Government for repayment thereof, and for other purposes, be made a special order for the second Monday in December.

Mr. CULBERSON. I ask what day of the month that will be?

The VICE-PRESIDENT. The 14th of December.

Mr. HALE. That is a week after Congress meets.

Mr. OVERMAN. What is the effect of a special order? It means that the bill is to be taken up for consideration, but no vote is to be had at that time, I understand.

The VICE-PRESIDENT. That it is simply to be made a special order for that day, and then it is in the control of the Senate. The question is on agreeing to the motion of the Senator from Montana. [Putting the question.] The motion is agreed to, two-thirds of the Senators present having voted in favor thereof.

#### NATIONAL FORESTS.

Mr. BRANDEGEE. I renew my motion.

The VICE-PRESIDENT. The Senator from Connecticut moves that the Senate proceed to the consideration of the bill (S. 4825) for acquiring national forests in the Southern Appalachian Mountains and White Mountains.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. BRANDEGEE. A reprint of the bill which was ordered yesterday has been made and there are copies here in the Senate which may be distributed. I understand the Senator from Colorado [Mr. TELLER] desires to speak this morning. He so stated yesterday.

Mr. TELLER. Mr. President, the bill now under consideration is one of a good deal of importance, and I have no doubt one that has attracted considerable attention. I am going to make my objections to the bill, and make them as briefly as I can, considering the importance of the subject. I know that we are in the last hours of the session, and the Senator who has the bill in charge is anxious to dispose of it; but my sense of duty requires me to make some objections to the bill and to state at some length the reasons why I object to it.

The bill has attracted considerable attention, because it has been fathered and supported by certain interests here at Washington as well as an interest in the vicinity where it is proposed that the forest reservations shall be established. If the bill is adopted, we shall enter upon a system heretofore not touched, and I think I may say heretofore supposed to be entirely outside of the business of the Government of the United States.

In a few words, Mr. President, I will state the proposition. It is to buy a large tract of land in the New England section of the country and create a great forest reserve, and to buy in another section of the country, in the South, another great forest reserve, one to be called the "White Mountain Reserve" and the other to be called the "Appalachian Mountain Reserve." The bill is a modest bill, considering what we are doing. It provides for an appropriation of only \$5,000,000, but the plan laid out by the bill would indicate that it would cost probably from \$50,000,000 to \$150,000,000 before we get through.

It is said by those who are advocating the bill—and I refer more particularly to the forest-reserve people now than to anybody else—that there are 75,000,000 acres of land in these two sections that ought to be incorporated into forest reserves, that ought to be bought by the Government of the United States for that purpose and devoted to that purpose. The price fixed in the various hearings the committee has had for the last three or four years puts the price of the land at from \$3.50 to \$6 an acre. Five million dollars will not buy very much forest-reserve land at that rate. But I am not concerned about the expense so much as I am about the principle involved in this enterprise. I can not myself escape the conclusion that the Government of the United States is without authority to engage in the business here suggested.

Yesterday the Senator who has the bill in charge, I suppose acting by direction of the committee, had an amendment made to the bill which was, I presume, proposed by the committee to remove some constitutional objection to this proceeding. It will be found on page 3, after the words "United States," in line 3. After the words "for national forest purposes" the words "for the purpose of preserving the navigability of navigable streams" were inserted. In approaching that subject I do not want to be offensive to anybody, but it is certain that this is an afterthought, and it has been incorporated in the bill for the purpose of meeting a constitutional objection raised in another place. If I may say it without offense to the committee or to anyone else, I will say it is a mere pretense that the bill is proposed for the purpose of protecting navigation, when in fact it is proposed for an entirely different purpose, and that is for the purchase of land and the incorporation of it by the Government of the United States into a forest not for the purpose of navigation, not to benefit navigable streams, but for the purpose of the preservation of timber and the preservation of the soil on the mountain sides, and to create a summer resort for the citizens of the section who would naturally avail themselves of such a park.

I might say I think there is another purpose in the bill, and that is to secure for the manufacturing people of a certain section more water power, if possible, for the purpose of manufacturing. None of these, in my opinion, are really propositions in the interest of the Federal Government, but in the interest of individuals and possibly of States.

That the purpose is other than the bill declares I shall endeavor to establish by the testimony of witnesses presented by the friends of this measure. The committee of another body has taken testimony on this subject. Practically every witness who appeared before the committee stated the purpose of the bill, and there was no one who did not indicate that there are other purposes than that of navigation. The only possible reason that could be given for this expenditure is that it would improve the navigation of certain rivers that are practically

nonnavigable now, or if they are navigable the commerce on them is so small and inconsequential that there is not any excuse for such an outlay of money for the purpose of protecting the waters.

Mr. Andrew J. Peters, of Massachusetts, states:

That the Massachusetts State Board of Trade gives its unqualified indorsement of bills now before Congress for the purpose of acquiring forest reserves in the Appalachian Mountains and White Mountains, to be known as the "Appalachian Reserve" and "White Mountain Forest Reserve," to the end that these areas may be properly controlled and protected, not only for their scenic value, but for the preservation of the sources of water supply of rivers which furnish the power for vast manufacturing interests.

The senior Senator from Massachusetts [Mr. LODGE] appeared before the committee and said:

The Senate last year passed the Appalachian forest bill, and it is considered by the people of my State—although no part of the reservation lies in Massachusetts—of the most vital importance to our industries, owing to the rivers and the water supply.

There is not a word there about the navigability of the stream.

Mr. C. J. H. Woodbury said:

I am secretary of the National Association of Cotton Manufacturers, whose members represent about \$750,000,000 in the cotton manufacturing business, with about 20,000,000 spindles, and I wish to present their resolution, which I will file, and also a set of resolutions from the Massachusetts Institute of Technology. Without taking the time of the committee, I would say that we have four of our members here who are very large manufacturers; and if it is the pleasure of the committee, I know they will add information of great value.

I challenge anybody to find in Mr. Woodbury's statement that there is any idea or any purpose of increasing the water in these rivers for navigable purposes. The Massachusetts Institute of Technology in the preamble to their resolution says:

(2) The maintenance of these forest tracts tends to conserve the regulation of rainfall, and therefore to the raising of agricultural products and to the health of the people;

(3) The forests are a great advantage to the States in which they are situated from their contribution to the scenic beauties of nature, and furnish conditions of salubrity and comfort during the summer, which form a means of attracting great numbers of summer tourists;

(4) The educational effect of life in the open has been abundantly recognized by the establishment of summer camps for the training of boys in athletics and woodcraft, and permanent places for the encouragement of this important movement would be provided by such reserves as are contemplated;

(5) A forest reserve would furnish opportunity for practical experiments in forestry and for demonstrating the value of the cultivation of trees, and would also serve as a place for the protection of the wild creatures of the woods, many of which are threatened with extinction;

(6) The conservation of the forests would tend to husband a portion of the national wealth, which had been grossly wasted by careless methods of cutting, and we believe that under the skilled supervision which such reservations would be expected to receive that the supply from the natural forest growth would be made a source of material income toward the expenses involved in the maintenance of the whole tract.

Mr. President, is there anything anywhere in that resolution, coming from one of the most intelligent bodies in Massachusetts, that would indicate that this was for the purpose of conserving the water for commerce? I have gone through this entire hearing and I do not believe that there is 1 per cent of the statements made that have any reference whatever to commerce or to preserving the water for commercial purposes. I will call attention to some of these, but not to all of them.

Mr. DANIEL. Mr. President—

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Virginia?

Mr. TELLER. Certainly.

Mr. DANIEL. Is there any method which the Senator from Colorado can suggest of preserving the commercial water of the streams other than by this method of preserving the forests?

Mr. TELLER. Mr. President, in the first place, I do not know whether there is or not; but I do know that if there is, it has not been suggested, and I know further this bill is not here for the purpose of protecting the water, but for another purpose entirely. It may be that incidentally they may protect some of the water of those rivers; but that was not the purpose of the bill when it was reported, and it has not been until within the last few days; and then only when a distinguished lawyer in the other House declared that, unless that was the primary and sole purpose, it was not within the provisions of the Constitution of the United States that we should engage in this business.

Mr. BRANDEGEE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Connecticut?

Mr. TELLER. I do.

Mr. BRANDEGEE. Let me ask the Senator if he does not think that the language in the original bill, before it was amended at all, which authorized the purchase of lands more valuable for the regulation of stream flow than for other purposes, situated on the watersheds of navigable streams in the



Appalachian Mountains distinctly points to the conservation of water in the streams and the preservation of the navigation of the streams?

Mr. TELLER. Mr. President, if it does point to it, the committee did not think it was sufficient, and therefore they reported the amendment. But I understand—and the testimony will show it—that the bill referred to the use of water for water power and not for navigation.

Mr. BRANDEGEE. Mr. President, if the Senator will yield once more—

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Connecticut?

Mr. TELLER. I yield, of course.

Mr. BRANDEGEE. If that was so, there would have been no sense in using the word "navigable," because water can furnish power whether a river is navigable or not.

Mr. TELLER. Mr. President, the people who have been advocating this measure have been advocating it not in the interest of navigation, but in the interest of forest reserves as reserves. They have been interested in saving the water for water power and the timber for public use.

Mr. Pinchot, who is supposed to know all about forests, and to whom, I understand, some people bow supinely and are ready to take anything he says as law and gospel on this subject—I heard him applauded here as the man who had come to save the forests of this country—Mr. Pinchot appeared before the committee, and I will show before I get through that that agency has been the active and moving cause which has prepared, provided, and sent out laws to be enacted and resolutions to be passed, and he is here now. He starts out by saying:

In a statement which I had the honor of making before the Committee on Agriculture last week I said that the United States was in a dangerous condition in regard to the timber supply. We are on the verge of a timber famine, indicated by the high prices to which timber has risen in the last few years, and by the fact that the best estimates now available indicate a total supply in the country, neglecting growth, for only about twenty years, and that the most liberal allowances which could be made for that growth would not extend the supply more than an additional ten years.

Then, Mr. President, he goes on to speak of the destruction and scarcity of timber, and all that, and says not a word about commerce. Then he proceeds to refer to the danger from fire and the destruction thereby of this timber, and he recommends the buying of these lands. He says that he thinks the Government could make some money in that way. I will read what he says:

With the rapid rise in the price of timber, there is no question whatever but that we would find in the United States the same experience which other nations have had, so that our timber lands will pay a large net revenue over and above expenses, just as they do now in Germany, France, Austria-Hungary, and so on, ranging from \$1 to \$5 and \$6 per annum an acre, net. As a strictly business proposition, from a revenue point of view, there can be no doubt that these lands will pay.

One word in conclusion, Mr. Chairman. In my judgment not only will it pay from a business point of view, because of the timber, to acquire these lands, but the prevention of floods, the protection of water power, the protection of the soil, and especially the maintenance of navigable streams.

That is the only suggestion of that character in this statement when he finally gets down to navigable streams.

Mr. CLARK of Wyoming. From what does the Senator read?

Mr. TELLER. I am reading from the hearings before the House committee.

Mr. BRANDEGEE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Connecticut?

Mr. TELLER. I do.

Mr. BRANDEGEE. I desire to remind the Senator from Colorado that Mr. Pinchot stated that this reservation would especially benefit the navigability of streams.

Mr. TELLER. Certainly; I have read what he said. I did not intend to leave that out, Mr. President, but that was subordinate to the other purposes.

Now, if I do not delay the Senate too long, I wish to speak somewhat about the importance of the navigability of streams in the section of the United States embraced in the bill.

Mr. BEVERIDGE. Mr. President, before the Senator from Colorado gets through, I wish to ask him a question.

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Indiana?

Mr. TELLER. Certainly.

Mr. BEVERIDGE. If the navigability of the streams is involved and this forest reserve conserves that purpose, does the Senator from Colorado see any objection to the plan merely because, as incident to that larger matter, the Government shall sell the down timber and the dead timber and derive a revenue from it at the same time?

Mr. TELLER. I do not know what the Senator from Indiana may think are the functions of the General Government, but my education has led me to believe that it could not enter into the timber business, that it has no concern with the timber business, and that it is not to be the paramount business, and it is not what it is here declared to be.

Mr. President, before I get through I am going to deny that there is any necessity of protecting the water for navigation, and that was not in the thought of anybody who inaugurated this scheme. It never has been. It has been for a forest reserve, that the Government of the United States might have a game reserve, might have a place where timber could be raised and where timber could be profitably sold.

Mr. President, you can not by a pretense make lawful that which is unlawful; you can not by inserting in a bill that a certain thing is the primary object, when it is not the object, make a bill constitutional when it is not constitutional; and I am going to cite the authority of Members of the House Committee on the Judiciary to that effect. But it is a common-law proposition that you can not do indirectly what you can not do directly—that is, you can not do a thing pretending it is for one purpose when really you are trying to do it for another purpose if the right to do the thing is denied or forbidden.

Then Mr. Phillip W. Ayres appeared before the committee. He said he was a forester. I do not know whether he is one who is connected with the Forest Reserve Service of the United States; but he said he was a forester.

Mr. GALLINGER. I will say to the Senator that Mr. Phillip W. Ayres is connected with a volunteer forestry association in the State of New Hampshire. He is a cultivated, educated gentleman and, I think, a graduate of a forestry school. He has no connection with the United States Government.

Mr. TELLER. Very well. He says:

I wish to speak especially of the method of removing the timber and its wastefulness, and incidentally I have some figures about the White Mountain region which I will not read to the committee, but which cover the forested area of the White Mountains and the yields and stands in the different portions of them, the value of the stumpage and of the timber on those several watersheds, and particularly some tables with regard to the extension of the cutting of spruce, which is limited in area, and upon which the supply of newspaper material throughout the entire United States depends. We feel that the White Mountains in this respect differ from the southern mountains, in that they produce a material which at present is limited in the area of its growth, and which is used universally through the country—

That is, spruce, which is used for paper making—

and that the White Mountains, with the areas immediately adjoining in the other States, ship their product, the spruce pulp, to all parts of the United States; and if the waste of the spruce timber continues as it has in the last few years, the entire country must suffer in that respect.

Mr. President, what has the Government of the United States to do with the waste of spruce timber in New Hampshire or anywhere else? Of course I know there has been here recently a distinguished gathering to see about conserving the natural products of the country. It is the States that ought to conserve those resources and not the General Government. I am in favor of forest reserves, but I am not in favor of the Government of the United States going into the business for the purpose of preserving game or forests, because there is no such power given to it under the Constitution; and if this bill had been taken up six months ago, the advocates of it would have based their arguments upon the necessity of the preservation of the forests as forests and not upon their preservation for the purpose of conserving the water supply and promoting the navigability of streams. They were educated by what occurred in another body to make the distinction between forests and water which they are now trying to make.

Mr. BEVERIDGE. I do not want to interrupt the Senator—

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Indiana?

Mr. TELLER. I do.

Mr. BEVERIDGE. But I think I can point out a fact within our own experience here—

Mr. TELLER. I am not going to yield to the Senator to make a speech. I thought he wanted to ask a question.

Mr. BEVERIDGE. I did not rise to ask a question. I merely wanted to call attention to what occurred here at the last session; but if it interrupts the Senator, I will not do so.

Mr. TELLER. I have told the Senator who has this bill in charge that, although I would vote against it, I would not purposely delay the vote on it. I am not talking against time, and I hope to be excused from any unnecessary interruptions. I will gladly answer questions.

Mr. OVERMAN. I should like to ask the Senator a question.

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from North Carolina?

Mr. TELLER. Certainly.

Mr. OVERMAN. I think the Senator from Colorado is mistaken in one statement he has made. As I understood him, he said that the idea of preserving these forests to protect the water supply and the navigability of the streams has only been suggested since the report of the Judiciary Committee of the House of Representatives. As I understood him, previous to that time the idea was merely to preserve the forests without considering their relation to the water supply. I see here a report made on April 13, in which they go into the question of the water supply very fully, and it seems devoted more to that than to anything else. It is a supplemental report.

Mr. TELLER. That arose from the fact that the chairman of the committee contended that this bill was not for the purpose of increasing the water supply and promoting the navigability of streams, and was not within the constitutional authority and power of Congress. Of course he then went into the whole subject. But that is what inspired the supporters of the bill to base their arguments upon the proposition that by preserving the forests navigation would be promoted. I am not speaking of the Senatorial supporters of the bill, but I am speaking of those outside, because it has been in season and out of season forced upon us for the last two years, and hundreds of associations and individuals have been telegraphing and writing in its interest.

Mr. Ayres is high up in forestry matters, as the Senator from New Hampshire [Mr. GALLINGER] says, and I again quote from him:

The method of cutting timber on the mountain slopes is the most destructive possible. The growth of the timber on the mountain sides is such that when a portion of the trees are removed the rest of them are likely to topple over with the heavy wind. The soil on the mountain sides is thin, and the growth is slow, the summers are short and cold, the elevation being between 3,000 and 4,000 feet, and with the pure spruce stands in that mountain region the growth is such that it requires one hundred and twenty-five years for a spruce tree to become 6 inches in diameter, which is the smallest merchantable size. These trees are swept off in their entirety, and although the operators do not use the entire amount of the timber, sometimes using only one-half or sometimes only one-fourth of it, the entire mountain side is stripped in order that the trees which are of sufficient size may roll over their prostrate neighbors to get down to the logging slopes; so that one-fourth to three-quarters of the forest is needlessly destroyed in order that the logs may be gotten out more easily. The Forest Service has prepared two albums, one of the Appalachian region and one of the White Mountain region, showing the methods of logging in these mountains.

That was brought to my notice, I think, at least a couple of years ago.

These albums are here before you, and these pictures show the perfect, clean, razor-like cutting off of the mountains, and they are indicative, they are entirely typical of the Northern States and of the Southern States, and the results are simply alarming. I believe I am not inclined to make extreme statements, but let me prove my point. In the first place, it is almost invariably that fire follows the debris which is left in such great quantities on the mountain side. Even if fire does not follow, the exposure to the sun of the roots of the trees that remain and of their stems kills them off, so the fact remains that there are no trees whatever over very large areas.

Then the chairman asked this question:

Has any State, to your knowledge, ever attempted to prevent by legislation such wasteful lumbering?

Mr. Ayres replied:

I believe that it has not. There are many individuals that have done it. There are many of our States that now have forestry commissions and State foresters which endeavor to get at their individual owners and prevent this. There are States like New York, Pennsylvania, and Michigan and other States which own forest tracts which are put in proper forest management. But I know of no legislation in any State which undertakes to prevent the individual from doing what he will with his own land.

Mr. President, I do not wonder at that. There would be a good deal of trouble, I think, in saying to a man, "You must not cut your timber unless you cut it under certain conditions." All through his testimony Mr. Ayres shows that he is not talking about navigation or commerce, and did not have it in his mind at all. Perhaps if he were called back and read Mr. JENKINS's report, he might have some further ideas to advance. I can not read all his statement, but later on he said:

These tables I have here will show you facts with regard to the spruce and hard woods of the White Mountains, on which the country is dependent for its supply of paper.

On the next page is the testimony of Mr. I. C. White, State geologist of West Virginia. All the way through he is in favor of this proposition, because of the preservation of forests. He speaks about preserving—

this great belt of timber and at the same time preserve the water supply, which will keep up the navigation of these rivers and make these dams which cost so much money, and which are so vital to the transportation interests of the country, useful for all time.

To that extent he referred to the relation of forest preservation to the navigability of streams.

I now quote from the testimony of Mr. A. M. Schoen, on page 736. He says:

I regret that I am not able to say anything about the White Mountains, as I am not conversant with that section. Mr. Porter, of Boston, was to have been here to speak of them. But there are other gentlemen here who will speak on that section. In the South nearly all our streams from which we obtain power for cotton mills or other purposes take their rise in the Southern Appalachians, and the denudation of the forest growth on these slopes will necessarily affect the flow of these streams, and especially in its uniformity.

Then he takes up the question of water power and the value of water power on the James River, which I suppose is one of the most valuable water powers of the United States, at least I have always been led to suppose so from what I have learned of it. It has a fine fall, and there is a fair amount of water. I find here a statement of the value of the water power of the forest streams. It is quite incomprehensible that this bill is in the interest alone of commerce to preserve the navigability of the rivers when the main feature of this whole statement is either that the timber is valuable and we are to save the timber and make money out of the timber, or that the water power is valuable and we are to make money out of the water power. This gentleman gives an estimate as to the water power of several rivers. I take it from his testimony that he thinks the water power belongs to the United States, though I am not quite clear, after reading it, whether he believed that or whether he believed that it belonged to the State. He says:

In going over that list I find that the Potomac River has 131,000 horsepower available and undeveloped, the Rappahannock 30,000 horsepower, which is projected and to be developed very shortly; the James River 23,000 developed near Richmond, and the available but undeveloped horsepower is very difficult to ascertain on account of the fact that the railroad runs very close to the bed of the river, that being a valley road, and a large development can not be effected without the consent of the railroad. The Appomattox River has 5,000 horsepower developed near Petersburg and 10,000 undeveloped, which will be developed at a late date; the Roanoke River, with 2,000 horsepower developed and 75,000 available; the Yadkin, with 87,000 horsepower developed and 80,000 available but undeveloped—

And so forth.

So he proceeds, dealing entirely with the water power. He comes down to the number of spindles that are being run by water power and how many might be run by water power, and then he makes some calculations of what the value of the water power will be. He concludes that the water power of the rivers he has named has a value of \$48,780,000 per annum. If that is so, Virginia is very rich in water power, and Virginia ought to be able to take care of all her forests and all the water that is necessary to keep up the water-power supply.

Another man came in and testified, who also dealt with the question of water power. He proceeded in the same way—I am not going to attempt to read all of this, because it would occupy too much time—but he goes on to speak about the rivers and the number of spindles, which is very great. Then comes the engineer of the Southern Power Company, who is a North Carolina man.

Mr. OVERMAN. What is his name?

Mr. TELLER. His name is W. F. Lee. His interest is shown by his testimony to be in the water power and not in the forests. He wants the forest to be preserved because it will create water power. Then he goes on to tell how cheaply water power can be used. He says:

We have been selling that power at about half what it could be made for by steam. This additional expense that we are going to in supplementing our water power with steam power is going to increase our rates. Our men who are financing this are going to ask for a fair return on their money, and it is going to mean that the advantages those people have had by reason of having that cheaper power will in part disappear. They have got to pay a fair return on these investments that will guarantee them their power.

I could read a good deal more of this, but will not do so. I only read enough to show that the primary purpose and the avowed object of this proposed legislation is not the preservation of the water supply and the navigability of streams, but the preservation of the forests and timber.

Mr. G. F. Swaine said, among other things:

I should like to say that the engineers, so far as I can speak for them, are very apprehensive with reference to the question of the timber supply. They realize that, as Mr. Pinchot has said, a timber famine is in sight, and they are asking themselves what they shall do ten or fifteen years from now, when the price of timber rises still higher and timber is still more difficult to obtain.

And all the way through is the same talk about timber. He continues:

Now, the regulation of the rivers affects the water powers, the preservation of the soil, and the navigation of the streams.

That is his first reference to streams—

The destruction of the forests is a very serious element as affecting the regulation of the flow of the streams, etc.



On the next page he says:

Now, the manufactures of New England grew up because of the water power. The city of Lowell, the city of Lawrence, were built because there were large water powers there on the streams, and all along our New England streams these large cities like Lawrence and Lowell and Manchester and Lewiston and Biddeford and others, Holyoke, Turners Falls, Bellows Falls, have grown up largely on account of the presence there of these large water powers.

Then he goes into some estimate of the value of these water powers. That is undoubtedly one of the reasons why people want to preserve the water in that country, not for navigation, but for water-power purposes. He said, in answer to a question, that he found all the manufacturers of New England favorable to this scheme. Undoubtedly that is true, Mr. President.

Then here is Mr. Edwin A. Start, who complains of fires, and I want to call attention to his testimony:

Mr. HAWLEY. Under your New England fire laws, do you exercise supervision over fires built for the burning up of brush on private property?

Mr. START. Yes, sir.

Mr. HAWLEY. And do you require permission to be issued before they can burn brush on their property?

Mr. START. Yes, sir.

Mr. HAWLEY. To what extent are those fire laws in force along the region it is proposed that this White Mountain and Appalachian reservation include?

Mr. START. Very little. It would be almost impossible to enforce such laws.

Mr. President, it is apparent that the Government of the United States is to take upon itself under this system the enforcing of laws that the States themselves do not attempt to enforce.

Before I get through I will come to the question whether the Government can enforce the laws there. When one of the witnesses was asked whether there would be reservoirs, he replied he thought the power companies would build reservoirs. This is Mr. Woodbury, secretary of the National Association of Cotton Manufacturers:

The cotton manufacturers in New England have, from time to time, as opportunity afforded, exerted all of their interest toward these forest-preservation laws, which have been summarized by Mr. Start before. They authorized me to come here, and the governor of Massachusetts also gave me permission to represent the Commonwealth. They have sent down four men, four large manufacturers, of whom Mr. Dumahe appeared before you this morning—he has under his charge very nearly twice as many spindles as any man in the world—and two other gentlemen, Hon. Arthur Low, of Pittsburg, who has mills at Pittsburg, at Clinton in Massachusetts, and at Huntsville, Ga., who was obliged to go back, as was also Mr. Joseph B. Gray, hydrographic expert of the Locks and Canal Company.

These mills are large users of water. They use a great deal of water in bleaching and dyeing.

I have a very large number of points marked here, but I aver now that an examination will show that the real purpose of those who appeared before the committee was either to secure the forests as forests or the water power for manufacturing purposes and not for commerce, and they had no thought of it for that purpose, except incidentally.

I am coming to another feature of this matter, which is not as pleasing to me even as what I am going to skip. I wish to say that I have not read anything like the amount I might read to show that the whole purpose of this is not for commerce, but for another purpose. I find here this, to which I call attention. It is from the statement of Harvey N. Shepard, of Boston, Mass.:

There are 10,000,000 people within easy and accessible distance of the White Mountains, who come there year after year—clerks, teachers, people of small salaries—who can gain only a few days' vacation, and they get that exhilaration that comes to a man or a woman when he has climbed a high mountain and looks out upon the forests and all the beauties of nature. That is something that is worth more than any material consideration. It is something that can not be reckoned in money.

They want the Government of the United States to take upon itself the obligation to provide amusement of that kind for the people.

Then he goes on to tell about a club which has been organized there, and it has provided the means of getting into the woods, and so forth and so on. On another page the same gentleman says:

The great manufacturing possibilities of the future of the country depend upon your action. I do not, gentlemen, urge at this time the reservoir system presented by your Government expert who spoke a few moments ago. That may be a question of the future.

The whole theory of this man was that it would help manufacturing. Mr. Sullivan, president of the Board of Trade of Lawrence, Mass., says:

The city of Lawrence has 80,000 people, and it is growing at the rate of three or four thousand a year. Within a mile and a half are 20,000 more people, so we have in all about 100,000 people. We not only live by the stream, which turns the wheels, but we drink the water of that river; we live on it practically. We are obliged to filter this water at an expense of nearly \$200,000 for filter galleries, the first in this country—

I suppose the Government will, when it gets into this business, provide the filters as well as the water—

If you allow the forests to be destroyed, you destroy the city of Lawrence. This is a peculiar position, but you know that if we were to ask you to-day to protect our city against the approach of enemies to destroy it, Congress would appropriate millions of dollars. We ask you now in peace to preserve the means by which we exist. Our position is peculiar. We live on this river, we depend on it for drinking, for turning the machinery, and for other purposes.

It seems to me that if a city of that kind is in such danger, it ought to be able to control the State authorities and have the State protect the water.

I am coming to the action of the several States, and I confess that I have been a good deal surprised of late years at the things done in high official circles, and I have had to reorganize somewhat my ideas of the powers of the General Government as now asserted, not only in the executive department, but here in this branch of the Government. But there are some things that I do not believe anybody will seriously contend for; that is to say, I do not believe Congress can give to any State any authority which it did not possess the moment it became a State. I do not believe Congress can take away from a State anything that belonged to it when it became a State.

Mr. President, there are a number of bills which have been passed by different States, and every one of them, I venture to say, went out from the Forestry Service, with the request that it be enacted into law, because they all bear the imprint of that office and all are practically the same in their theory of what the State might and ought to do. Let me read section 18½ of the Alabama act:

SEC. 18½. That the consent of the State of Alabama be, and is hereby, given to the acquisition by the United States, by purchase or gift, or by condemnation according to law, of such land in Alabama as in the opinion of the Federal Government may be needed for the establishment of such a national forest reserve in this region.

Mind you, that has nothing to do with water. That is a forest reserve.

Provided, That the State shall retain a concurrent jurisdiction with the United States in and over such lands so far that civil process in all cases, and such criminal process as may issue under the authority of the State against any person charged with a commission of any crime without or within said jurisdiction, may be executed thereon in like manner as if this act had not been passed. In all condemnation proceedings the right to the Federal Government shall be limited to the specific objects set forth by the laws of the United States in regard to forest reserves.

Mr. NEWLANDS. Mr. President—

The PRESIDING OFFICER (Mr. BACON in the chair). Does the Senator from Colorado yield to the Senator from Nevada?

Mr. TELLER. Certainly.

Mr. NEWLANDS. May I ask the Senator from what page he reads?

Mr. TELLER. I am reading from the hearings before the House committee. If the Senator has the document, it is page 788.

Mr. NEWLANDS. Thanks.

Mr. TELLER. Here is a most remarkable proposition, and it could not have emanated from any place except the Forestry Service. There is no other place in the public service where such a thing could have been thought of or invented.

That power is hereby conferred upon Congress to pass such laws and to make or provide for the making of such rules and regulations of both civil and criminal nature, and provide punishment for violation thereof as in its judgment may be necessary for the management, control, and protection of such lands as may from time to time be acquired by the United States under the provisions of this act.

Mr. BORAH. Is that in the Alabama act?

Mr. TELLER. That is in the Alabama act, and it is practically repeated in the acts of several other States.

The power is hereby conferred upon Congress.

I do not believe any Senator will rise here and say that that act confers any power upon Congress. I do not think anybody will assert that even for a moment.

Mr. DANIEL. Was it a cession to the United States?

Mr. TELLER. No, sir; not a cession. It does not cede. It says it is concurrent and not a cession. Story said that the Government of the United States could not take a qualified cession; it must take an absolute cession. He said that the jurisdiction of the United States means absolute jurisdiction; and he repeated that two or three times in different opinions. That is more than fifty years old. It ought to be self-evident to everybody that we can not as a nation divide our sovereignty with any other sovereignty or half sovereignty; and certainly Congress can not confer upon the States any power that the States do not have.

Mr. DANIEL. Will the Senator permit me to ask him a question?

Mr. TELLER. I will.

Mr. DANIEL. I do this for the enlightenment of the meditation of the Senator on the subject. Section 8 of this bill provides:

Sec. 8. That the jurisdiction, both civil and criminal, over persons upon the lands acquired under this act shall not be affected or changed by their permanent reservation and administration as national forest lands, except so far as the punishment of offenses against the United States is concerned, the intent and meaning of this section being that the State wherein such land is situated shall not, by reason of such reservation and administration, lose its jurisdiction nor the inhabitants thereof their rights and privileges as citizens or be absolved from their duties as citizens of the State.

Mr. TELLER. Will the Senator allow me to ask him a question?

Mr. DANIEL. Certainly.

Mr. TELLER. Do you believe that Congress has any authority to pass that provision and make it effective?

Mr. DANIEL. I do not like to give an opinion on the subject offhand. I have never studied it before, but I should doubt the propriety of that section. I want to hear the Senator's opinion.

Mr. TELLER. I regard it as an elementary principle of government that Congress can neither increase the power of a State nor diminish the power of a State. I know at the close of the great war there was an attempt to diminish the powers of the States, but whenever the Supreme Court has had an opportunity it has declared that it could not be done, no matter how guilty the people might be of crimes against the United States. The State was still there and with the same rights it had before the war began.

I intended to come to that, but I will pass it and read some of the others, and then I want to say what I think about it. I will take Georgia. The act is as follows:

An act to give consent by the State of Georgia to the acquisition by the United States of such lands as may be needed for the establishment of a national forest reserve in said State.

Whereas it is proposed that the Federal Government establish in the high mountain regions of Georgia and adjacent States a national forest reserve, which will perpetuate these forests and forever preserve the headwaters of many important streams, and which will thus prove of great and permanent benefit to the people of this State; and whereas a bill has been introduced in the Federal Congress providing for the purchase of such lands for said purpose, the general assembly of Georgia do enact:

SECTION 1. That the consent of the State of Georgia be, and is hereby, given to the acquisition by the United States, by purchase or gift, or by condemnation according to the law, of such lands in the mountain region of Georgia as in the opinion of the Federal Government may be needed to the establishment of such a national forest reserve in that region: *Provided*, That the State shall retain a concurrent jurisdiction with the United States in and over such lands so far that civil process in all cases, and such criminal process as may issue under the authority of the State against any person charged with the commission of any crime without or within said jurisdiction, may be executed in like manner as if this act had not been passed: *And provided*, That in all condemnation proceedings the rights of the Federal Government shall be limited to the specific objects set forth by the laws of the United States in regard to forest reserves.

SEC. 2. That power is hereby conferred upon Congress to pass such laws as it may deem necessary to the acquisition as hereinbefore provided, for incorporation in said national forest reserves, of such mountain lands lying in Georgia as in the opinion of the Federal Government may be needed for this purpose.

SEC. 3. Power is hereby conferred upon Congress to pass such laws and to make or provide for the making of such rules and regulations, of both civil and criminal nature, and provide punishment therefor, as in its judgment may be necessary for the management, control, and protection of such land as may be from time to time acquired by the United States under the provisions of this act.

This act shall be in force from its passage.

It is mighty kind on the part of the State of Georgia to allow Congress to pass such laws as it wants to. I thought myself that the Constitution of the United States determined what Congress could pass, and I did not know that all the people of the United States voting or all the people of the States voting or all of the States combined could give Congress any power that did not exist the day the Constitution was adopted, or which was not created by the subsequent amendments to the Constitution.

There is but one way in which you can confer upon Congress power which it has not got, and that is by an amendment of the Constitution; that is, by the verdict of the American people expressed in the way the Constitution provides it shall be. The States did not make the Constitution. It is true, they had something to do with it. The Supreme Court has said again and again that the people of the United States made the Constitution, and it is the people's Constitution, and in the very preamble it is declared that it is made by the people of the United States, and the courts have sustained that.

Now, Mr. President, Virginia. I see before me the senior Senator from Virginia [Mr. DANIEL]. I want to call his attention to this act. I venture to say that the Senator from Virginia never saw this before. I doubt whether any considerable number of the people of Virginia ever heard of it. It went up from the

Department to the people of Virginia, and they were asked to put it through. This is a little different from the others.

*Resolved by the senate of Virginia, the house of delegates concurring*, That the general assembly of Virginia hereby expresses its approval of the movement looking to the establishment by the Federal Government of an extensive national forest in the Southern Appalachian Mountain region—

I want to call attention that in every movement of this kind it is a forest. There is not a suggestion about streams in any one of these acts—

as a wise and beneficent measure, such as many other nations have already adopted and which this country has already adopted in the West—

That is not true. We have never adopted any such proposition in the West. The Government has taken its own lands and put them in forests, but never has taken anybody's else. I believe it did exchange some acres and put them into forests. It made an exchange under the statute which we provided, but it is a very different thing for the Government to buy lands to make forest reserves and taking its own lands for that purpose—

and should adopt in the East before it is too late, looking to the conservation of its forests and the protection of the sources of important streams; and

Whereas the proposal to establish this forest reserve has been approved and urged by the leading scientific and forestry associations of this country and by both the general and technical press; and

Whereas the general assembly of Virginia has already passed an act granting the State's consent to the acquisition of lands in Virginia by the Federal Government for incorporation in such a forest reserve, believing the reserve to be one of great importance to the people of this State; and

Whereas a bill is now before the Federal Congress providing for the purchase of lands for this purpose:

*Resolved*, That the Senators and Representatives in Congress from this State are hereby requested to urge upon Congress the importance of prompt and favorable action in behalf of this measure, and that copies of this resolution be sent to the Senators and Representatives from Virginia.

Then follows the act referred to:

An act to give consent by the State of Virginia to acquisition by the United States of such lands as may be needed for the establishment of a national forest reserve in the said State. Approved February 15, 1901.

Whereas it is proposed that the Federal Government establish in the high mountain regions of Virginia and adjacent States a national forest reserve, which will perpetuate these forests forever and preserve the headwaters of many important streams, and which will prove of great and permanent benefit to the people of this State; and

Whereas a bill has been introduced in the Federal Congress providing for the purchase of such lands for said purpose: Therefore

*Be it enacted by the general assembly of Virginia*, That the consent of the State of Virginia be, and is hereby, given to the acquisition by the United States, by purchase or gift, or by condemnation according to law, of such lands in Virginia as in the opinion of the Federal Government may be needed for the establishment of such a national forest reserve in that region: *Provided*, That the State shall retain a concurrent jurisdiction with the United States in and over such lands so far as that civil process in all cases, and such criminal process as may issue under the authority of the State against any person charged with the commission of any crime without or within said jurisdiction, may be executed thereon in like manner as if this act had not been passed: *And provided*, That in all condemnation proceedings the rights of the Federal Government shall be limited to the specific objects set forth by the laws of the United States in regard to forest reserves.

2. That the power is hereby conferred upon Congress to pass such laws as it may deem necessary to the acquisition, as hereinbefore provided, for incorporation in said national forest reserve such forest-covered lands lying in Virginia as in the opinion of the Federal Government may be needed for this purpose.

There is not a word about preserving the rivers. They might have taken the country where there was not any water at all, if they saw fit, under this.

It is incomprehensible to me that any legislative body in this country would believe it could confer authority upon Congress.

3. Power is hereby conferred upon Congress to pass such laws and to make or provide for the making of such rules and regulations of both civil and criminal nature—

It is incomprehensible to me that any legislative body in this country would believe it could confer such authority upon Congress.

And provide punishment for violation thereof, as in its judgment may be necessary for the management, control, and protection of such lands as may be from time to time acquired by the United States under the provisions of this act.

Then North Carolina came in:

An act to give consent by the State of North Carolina to the acquisition by the United States of such lands as may be needed for the establishment of a national forest reserve in said State.

Whereas it is proposed that the Federal Government purchase lands in the high mountain regions of western North Carolina and adjacent States for the purpose of establishing there a national forest reserve which will perpetuate these forests and forever preserve the headwaters of many important streams, and which will thus prove of great and permanent benefit to the people of this State; and whereas a bill has been introduced in the Federal Congress providing for the purchase of such lands for said purpose: Therefore, the general assembly of North Carolina do enact:

SECTION 1. That the consent of the general assembly of North Carolina be, and is hereby, given to the acquisition by the United States, by purchase or by condemnation, with adequate compensation except as hereinafter provided, of such lands in western North Carolina as



in the opinion of the Federal Government may be needed for the establishment of such a national forest reserve in that region: *Provided*, That the State of North Carolina shall retain a concurrent jurisdiction with the United States in and over such lands so far that civil process in all cases and such criminal process as may issue under the authority of the State of North Carolina against any person charged with the commission of any crime without or within said jurisdiction may be executed thereon in like manner as if this act had not been passed.

SEC. 2. That power is hereby conferred upon Congress to pass such laws as it may deem necessary to the acquisition as hereinafter provided for incorporation in said national forest reserve such forest-covered lands lying in western North Carolina as in the opinion of the Federal Government may be needed for this purpose: *Provided*, That as much as 200 acres of any tract of land occupied as a home by bona fide residents in this State at the date of the ratification of this act shall be exempt from the provisions of this section.

SEC. 3. Power is hereby conferred upon Congress to pass such laws and to make or provide for the making of such rules and regulations of both civil and criminal nature, and provide punishment therefor, as in its judgment may be deemed necessary for the management, control, and protection of such lands as may be from time to time acquired by the United States under the provisions of this act.

SEC. 4. This act shall be in force from and after its ratification. In the general assembly, read three times, and ratified this the 18th day of January, A. D. 1901.

W. D. TURNER,  
President of the Senate.  
WALTER E. MOORE,  
Speaker of the House of Representatives.

Then here is New Hampshire. Now, New Hampshire may have some interest in this matter:

That the consent of the State of New Hampshire be, and is hereby, given to the acquisition by the United States by purchase, or condemnation according to law of such lands in this State as in the opinion of the Federal Government may be needed for the establishment of a national forest reserve in the White Mountain region.

The Senator who has this bill in charge would incorporate into that, if he had an opportunity, for the purpose of protecting the waters of the country, but unfortunately the Department which inaugurated this and has supported it and backed it did not then dream that the Government did not have the authority to take this land and do with it as it saw fit.

Tennessee passed two acts providing practically the same thing. As I said, every one of these acts came from the same author, from the same place, and whoever it was, he had the same idea:

#### TENNESSEE.

A resolution favoring the establishment of a national forest reserve in the Southern Appalachian Mountain region.

*Resolved by the house of representatives (the senate concurring):* The general assembly of Tennessee hereby expresses its approval of the movement looking to the establishment by the Federal Government of an extensive national forest reserve in the Southern Appalachian Mountain region as a wise and beneficent measure, such as many other nations have already adopted, and which this country has already adopted in the West and should adopt in the East before it is too late, looking to the conservation of its forests and the protection of the sources of important streams; and

Whereas the proposal to establish this forest reserve has been approved and urged by the leading scientific societies and forestry associations of this country and by the general press; and

Whereas this general assembly has before it a bill granting the State's consent to the acquisition of lands in eastern Tennessee by the Federal Government for incorporation in such a forest reserve, believing the reserve to be one of great importance to the people of this State; and

Whereas a bill is now before the Federal Congress providing for the purchase of lands for this purpose:

*Resolved*, That the Senators and Representatives in Congress from this State are hereby requested to urge upon Congress the importance of prompt and favorable action in behalf of this measure.

An act to give consent by the State of Tennessee to the acquisition by the United States of such lands as may be needed for the establishment of a national forest reserve in the said State.

Whereas it is proposed that the Federal Government establish in the high mountain regions of eastern Tennessee and adjacent States a national forest reserve, which will perpetuate these forests and forever preserve the headwaters of many important streams, and which will thus prove of great and permanent benefit to the people of this State; and

Whereas a bill has been introduced in the Federal Congress providing for the purchase of such lands for said purpose: Therefore,

*Be it enacted by the general assembly of the State of Tennessee:*

SECTION 1. That the consent of the State of Tennessee be, and is hereby, given to the acquisition by the United States, by purchase, gift, or condemnation according to law, of such lands in this State as in the opinion of the Federal Government may be needed for the establishment of such a national forest reserve in that region:

*Provided*, That the State shall retain the concurrent jurisdiction with the United States in and over such lands, so far that civil process in all cases, and such criminal process as may issue under the authority of the State against any person charged with the commission of any crime without or within said jurisdiction, may be executed thereon in like manner as if this act had not been passed.

*Provided further*, That this act shall apply to lands in Tennessee lying within 20 miles of the North Carolina State line; that all condemnation proceedings herein provided shall be limited to lands now forest covered, and that in all such condemnation proceedings the right of the Federal Government shall be limited to the specific objects set forth in this act and in the laws of the United States in regard to forest reserves.

SEC. 2. *Be it further enacted*, That power is hereby conferred upon Congress to pass such laws as it may deem necessary to the acquisition, as hereinafter provided, for incorporation in said national forest reserve such forest-covered lands lying in the State as in the opinion of the Federal Government may be needed for this purpose.

SEC. 3. *Be it further enacted*, That power is hereby conferred upon Congress to pass such laws and to make or provide for the making of such rules and regulations of both civil and criminal nature, and provide punishment for violation thereof, as in its judgment may be necessary for the management, control, and protection of such lands as may be from time to time acquired by the United States under the provisions of this act.

SEC. 4. *Be it further enacted*, That this act take effect from and after its passage, the public welfare requiring it.

Passed April 16, 1901.

Then, an astonishing thing is that here is the State of Maine doing the same thing.

Whereas certain permanent and summer residents of this State have taken steps to memorialize Congress for the establishment of a national forest reserve in the White Mountain region.

That is for summer residences—summer homes.

Whereas the establishment of such a reserve would perpetuate valuable forest growths and forever preserve the headwaters of several important streams and thus benefit the commerce, industry, and agriculture of all the New England States save one; and

Whereas the White Mountain region is of increasing importance as a pleasure resort to fully one-quarter of the entire population of the country who reside within easy reach of it: Therefore be it

*Resolved by the senate and house of representatives in general court convened*, That the legislature of Maine hereby expresses its approval of the proposition to establish a White Mountain national forest reserve.

That the consent of the State of Maine be, and is hereby, given to the acquisition by the United States by purchase, gift, or condemnation according to law, of such lands in this State as, in the opinion of the Federal Government, may be needed for the establishment of a national forest reserve in the White Mountain region.

That power is hereby conferred upon Congress to pass such laws and make and provide for the making of such rules and regulations of both civil and criminal nature and provide punishment for the violation thereof as, in its judgment, may be necessary for the management, control, and protection of such lands as may from time to time be acquired by the United States under the provisions of this joint resolution: *Provided*, That the State of Maine shall retain a concurrent jurisdiction with the United States in and over such lands so far as that civil process in all cases, and such criminal process as may issue under the authority of the State against any person charged with the commission of crime, without or within said jurisdiction, may be executed therein in like manner as if this joint resolution had not been passed.

That the Senators and Representatives in Congress from this State are hereby requested to urge upon Congress the importance of prompt and favorable action on behalf of the proposition to establish a White Mountain national forest reserve.

Every one of the provisions which I have read is indicative of the fact that this is a forest reserve and not a water preserve.

Mr. NEWLANDS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Nevada?

Mr. TELLER. I do.

Mr. NEWLANDS. Will the Senator permit me to make a suggestion?

Mr. TELLER. I do not want the Senator to make a speech, because I want to get through. I will let him ask a question or make a brief suggestion. Otherwise I fear I shall get into a discussion that will last all day.

Mr. NEWLANDS. The suggestion I wish to make is a very brief one.

Mr. TELLER. I promised to be as brief as I could.

Mr. NEWLANDS. It seems apparent from the State legislation to which the Senator has referred that the chief consideration they had in view at that time was the preservation of the forests and the timber supply and as sources of power, as increasing the water power, for the purpose of manufacturing, and so forth. But the Senator will observe that within the last two or three years there has been a great movement in this country toward the waterways for purposes of navigation. That movement has taken a very intense form within the last two or three years. Does not the Senator realize that that is the uppermost idea in the minds of the people of this country, that the waterways shall be developed to their highest use for navigation and incidentally for the other purposes?

Mr. TELLER. The evidence before me justifies me in saying it is a second thought and not the first. I do not agree with the Senator that the people have gone wild about waterways since the Inland Waterways Commission was organized and started on its trip down the Mississippi River. I am not saying anything against the Commission.

Mr. NEWLANDS. The Inland Waterways Commission is simply the outgrowth of this movement. There was a great demand upon the part of all the people living within the region of the waterways that there should be a development, and that demand has been met, as I understand, by the President appointing a commission for the purpose of recommending to Congress a broad and comprehensive plan for the development of the waterways. The appointment of the Commission was the result of the agitation and was not the cause of the agitation.

Mr. TELLER. I think I keep fairly in touch with the public on these questions. I have been here a good many years, and I

have been a waterways man myself. I have voted for all the development of rivers, because I thought it was a constitutional right and constitutional duty. I deny that there is any more interest in it to-day than there was thirty years ago, when I came into the Senate—not a bit more. It has been discussed less in the last ten years than it was during the previous ten years or before that. It is true, I think, that the Inland Waterways Commission did stir up some interest in it. But it did not tell us a single thing—and I have read with care their report—that any ordinarily intelligent man did not know. I am frank about it. There is nothing in that report of any benefit to anybody. Everybody knew that the Mississippi River was a great river and that it ought to be protected and made navigable, and be made navigable for vessels twice the size of the vessels that traverse it now.

Mr. President, I have advocated on this floor for more than twenty years the making of a water canal from Lake Michigan into the Mississippi River, and I took some part in getting a small canal from the Illinois River into the Mississippi River. It was too small to be of any real benefit, but it was the best we could do, hoping that it might be the progenitor of something better, as I have no doubt it will in time. But there has been no such feeling among the people generally.

Mr. NEWLANDS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Nevada?

Mr. TELLER. Certainly.

Mr. NEWLANDS. May I ask the Senator whether the Congress of the United States in its action upon the question of improving the waterways of the country for purposes of navigability has met the expectations of the Senator himself? I will ask him further whether it is not possible that the people of the entire country are very much dissatisfied with the inaction, the inertia, the apathy, and the indifference of Congress on this subject, as shown by its lack of appropriate legislation? I know that the Senator has been a foremost advocate of the development of our waterways, but certainly the action of Congress has not kept pace with his desires or with his expectation, and it is possible that the whole country may be dissatisfied with the action of the Congress, as the Senator doubtless is himself.

Mr. TELLER. Mr. President, I am not complaining of Congress at all. I did make complaint here some years ago about the system by which we were expending our money, and we changed that system. But, Mr. President, the party that is in power now and has been in power all except eight years since I have been in public life, now over thirty years, is the party that has had the power to provide these waterways if they wanted to do so. Yet the people have year after year supported them and always in their national conventions declared that their conduct had been entirely satisfactory to them up to that time. So I do not believe the Senator from Nevada can bring any proof to show that there is any general rebellion against the lack of attention to waterways.

Mr. President, I am desirous not to take too much time, and I want to skip some of this matter if I can, because I realize that it is supposed we are in the neighborhood of final adjournment. We have the resolutions of the board of directors of the American Institute of Electrical Engineers, and their principal idea seems to be that we were deforesting the forests; that the timber supply was disappearing; and therefore we ought to have these lands put in a forest reserve. They say:

Whereas the timber resources of this country are being rapidly diminished, owing to unscientific methods of forestry, to the prevalence of forest fires, and to a wasteful use of timber, resulting in a steady increase in the cost of both hard and soft woods, and which may result moreover in the diminution of the natural storage capacity of our streams, an increasing irregularity in the flow, and consequent impairment of the value of our water powers.

Those are the engineers. Then they urge the passage of this bill, or something like it.

A resolution adopted by the National Board of Trade at its meeting in Washington, in 1908, contains the following:

Whereas the continuation and development of foreign trade in manufactured goods depends largely on our ability to produce at the minimum of cost, it is therefore of vital importance that the waterways and water powers of the Southern Appalachian and White Mountain regions, where hundreds of millions of dollars are now invested in manufacturing enterprises, shall be conserved and perpetuated by protecting the forest cover of these regions.

There is not a word, Mr. President, about commerce or shipping.

Now, I have gone over that. I have gone over it for the purpose of showing that the primary object of this measure is not water, but forests, timber, lumber, power, places of resort, not one of which can be claimed to bring it within the purview of the National Government.

Mr. President, I have here a report from the majority of the Judiciary Committee of the House of Representatives. The committee seem to be divided somewhat upon the theory upon which they go, but I am going to show what they all, without exception, declared. Only one man said if you can bring it within the provision that it is really and perfectly and honestly for the purpose of preserving the water and increasing the navigability of streams, he thought it might be done. All the others said it could not be done at all.

Mr. GALLINGER. Does the Senator notice that five members of that committee united in this statement?

It is amply apparent from the foregoing statement that Congress has the constitutional power to acquire lands and forest reserves in a State by purchase, condemnation, or otherwise, as an aid to navigation, if it be made to appear to Congress that such reserves would materially or substantially aid navigation.

Five members of the committee to which the Senator calls attention united in that statement.

Mr. TELLER. The men who stood for that more than anybody else added the following:

One of the purposes of the Constitution being to preserve and maintain the use of our navigable rivers as aids to commerce, the State and the Federal Government may agree as they deem best to carry out this great purpose. Such an agreement can be expressed in the act of Congress by setting forth therein in detail the particular cessions of jurisdiction by the State that would be required by the United States as a condition precedent to purchasing the reserves, and by also setting forth therein the purpose for which such jurisdiction is required. This purpose should plainly appear to be that of aiding navigation. All other purposes should be eliminated.

Mr. President, you knock the whole bottom out of this case if you eliminate everything except that.

Mr. GALLINGER. But manifestly in the following paragraph they were not quite so emphatic on that point. They clearly state that if it is an aid to navigation it can be done.

Mr. TELLER. The majority of the committee were absolute and unequivocal in declaring that there was no authority on the part of the Government to buy this land.

Mr. BRANDEGEE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Connecticut?

Mr. TELLER. Yes.

Mr. BRANDEGEE. The Senator understands, I suppose, that the report of the Judiciary Committee in the House was upon the bill that was pending in the House and not upon the bill under discussion here.

Mr. TELLER. It was exactly the same bill, except the slight amendment you had made yesterday, which, in my opinion, cuts no figure in the case at all.

Mr. BRANDEGEE. The Senator would admit, I assume, that if Congress is satisfied that the purchase of the forests will promote the navigability of navigable streams it is a constitutional purpose.

Mr. TELLER. I will not admit anything of the kind.

Mr. BRANDEGEE. Will the Senator admit that it is constitutional to improve the navigability of navigable streams?

Mr. TELLER. I suppose I have voted a hundred times favorably on that proposition. It is begging the question when you say if Congress believes it. Nobody can believe that that is the purpose if he will read this testimony. Nobody can believe it, because of the fact that it has been presented to us for the last five years not as an aid to commerce but simply as a forest reserve and a timber-protecting scheme. You can not change that purpose by suddenly putting in some provision for a purpose that does not exist.

Mr. President, I desire to have this report of the House committee published. That by Mr. JENKINS—

Mr. GALLINGER. Then I will request that the entire report be published.

Mr. TELLER. I mean the whole of it, all of it.

Mr. GALLINGER. I think we might well question the propriety of discussing the action of the House on this question under the rules of the Senate, but I will not raise that point.

Mr. TELLER. No; Mr. President, that is not objectionable.

Mr. GALLINGER. I think it is, under our rules.

Mr. TELLER. It is not, Mr. President.

Mr. GALLINGER. All right.

Mr. TELLER. This is past. There has been a lapse. Something has been done. Whenever the House of Representatives has completed its action, then it is subject to discussion, as I can show by the authorities, both in England and in the United States. I believe, Mr. President, I have always kept within the rules on these matters, and I believe I know what they are quite as well as anybody else.

But if I can not discuss it, then surely it ought not to be put into the Record. I want to put into the Record everything that was said by the committee unless there is some objection.



Mr. GALLINGER. I will say I have no objection if the Senator puts in the entire report.

Mr. TELLER. There are three reports here and they are all in one pamphlet. I pass it up and I ask that it may go in as an appendix to what I have been saying.

The VICE-PRESIDENT. Is there objection? Without objection, it is so ordered.

The matter referred to is as follows:

[House of Representatives. Report No. 1514. Sixtieth Congress, first session.]

POWER OF FEDERAL GOVERNMENT TO ACQUIRE LANDS FOR NATIONAL FOREST PURPOSES.

Mr. JENKINS, from the Committee on the Judiciary, submitted the following report, to accompany H. Res. No. 365.

The Committee on the Judiciary received from the House the following:

Whereas the President in his message to the Congress at its present session, on December 3, 1907, makes the following recommendation:

"We should acquire in the Appalachian and White Mountain regions all the forest lands that it is possible to acquire for the use of the nation. These lands, because they form a national asset, are as emphatically national as the rivers which they feed, and which flow through so many States before they reach the ocean;" and

Whereas there have been introduced into the House of Representatives bills for the acquirement of national forests in the Southern Appalachian Mountains and the White Mountains, the same being H. R. 10456 and H. R. 10457, which provide as follows:

"That the Secretary of Agriculture is hereby authorized and directed, in his discretion, to acquire for national forest purposes, by purchase or gift, lands more valuable for the regulation of stream flow than for other purposes, and situated on the watersheds of navigable streams in the Southern Appalachian Mountains within the States of Maryland, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Alabama, Kentucky, and Tennessee, and in the White Mountains within the States of New Hampshire and Maine.

"That the Secretary of Agriculture may do all things necessary to secure the safe title in the United States to the lands to be acquired under this act; but no payment shall be made for any such lands until the title shall be satisfactory to the Attorney-General and shall be vested in the United States.

"That the sum of \$5,000,000 is hereby appropriated to carry out the provisions of this act, out of any moneys in the Treasury not otherwise appropriated, and said sum shall be available immediately and until expended for said purpose: *Provided*, That the Secretary of Agriculture shall each year make a detailed report to Congress of the lands purchased under this act, and the cost thereof." Therefore be it

*Resolved*, That so much of the President's message, above referred to, which relates to the acquisition of lands in the South Appalachian and White Mountains "for the use of the nation" be referred to the Committee on the Judiciary of the House of Representatives, together with the questions involved in the bills referred to, directing the Secretary of Agriculture to acquire for national forest purposes lands in the Southern Appalachian and White Mountains, within the States named, with instructions to said committee to report fully at an early date their views as to the power of the Federal Government by legislation to acquire, by purchase, condemnation, or otherwise, the lands referred to in said bills, situated in the States mentioned, and to appropriate money therefor, and also what power and authority the Federal Government has by legislation to acquire for the purpose of forest reserves lands within a State wherein the Government of the United States has no public domain, and to make appropriation therefor.

We respectfully report that the committee has obeyed the instructions of the House and had under consideration the aforesaid communication. The instructions are to report the views of the committee as to the power of the Federal Government, by legislation, to acquire by purchase, condemnation, or otherwise, the lands referred to, situated in the States mentioned in the preamble, and to appropriate money therefor; and also what power and authority the Federal Government has by legislation to acquire for the purpose of national forest purposes lands within a State wherein the Government of the United States has no public domain, and to make appropriation therefor.

To restate the question, in other words to be gathered from the entire communication, Has Congress the power to enter a State and take from the owner thereof lands for forest purposes more valuable for the regulation of stream flow than for other purposes? The committee have been aided in their research by arguments made on behalf of the constitutionality of the measure and also in favor of the unconstitutionality of the same. The committee is not unmindful of the interest taken by many people in this matter, many believing that if Congress has the power and would exercise it, it would be beneficial, but it is purely a question of power. In this matter the committee is limited to answering a constitutional question, which must be gathered from the communication sent by the House to this committee, and can not consider any question of policy. It is said on behalf of the constitutionality of the proposed measure that the object is the regulation of stream flow in navigable rivers, while the instrument sent by the House to this committee says, in part: "To acquire for national forest purposes lands more valuable for the regulation of stream flow than for any other purposes."

In order to determine the question, reference will have to be made to the Constitution. It is universally agreed that the Government of the United States is one of limited power; that the power of the United States is to be found in the Constitution of the United States; that the Government of the United States is not only one of limited power, but the powers are enumerated. After stating what powers are conferred on Congress by enumeration, follows a provision for carrying the express powers into effect, authorizing Congress to make all laws necessary and proper for carrying into execution the enumerated powers in the Constitution. The construction of this paragraph was very aptly and wisely stated in *McCulloch v. Maryland* (4 Wheat., 316), by Marshall, Chief Justice, who said:

"But we think the sound construction of the Constitution must allow to the National Legislature that discretion, with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it, in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional."

The express enumerated power so strongly relied upon is the one that confers upon Congress the power to regulate commerce between the States. The question addressed to this committee is much more important than the average person may think. It is very easy for those in favor of a proposition to lose sight of any constitutional question involved. As the nation grows and expands many appeals for relief are made for Federal power by the people, apparently of the belief that the National Government is capable of immense powers of legislation for the general welfare of the people. When the people are not in sympathy with the exercise of Federal power, they are extremely sensitive, and the best and only way is to pursue the pathway so clearly defining the line of demarcation between State and Federal power. There is nothing more dangerous to the peace, prosperity, and perpetuity of this nation than for Congress to execute powers not conferred. The people will always be loyal to the States, and the nation will always be in need of the assistance and support of the people; and the best way to obtain the sympathy and support of the people for the National Government is for the Congress of the United States to keep within the limitations conferred by the Constitution.

It was said by Taney, Chief Justice, in *Martin v. Waddell* (1842) (16 Pet. (U. S.), 410), that "when the Revolution took place the people of each State became themselves sovereign, and in that character hold the absolute right to all their navigable waters and the soils under them for their own common use, subject only to the rights since surrendered by the Constitution to the General Government."

This language was repeated by McKinley, J., in *Pollard v. Hagan* (1845) (3 How. (U. S.), 229). The Constitution of the United States confers no power of eminent domain or of legislation over State territory, except that contained in the seventeenth clause, eighth section, first article, relating to the seat of government and places purchased with the consent of the State for forts, magazines, etc. Hence it was said by the court, in the case last cited, that, even if Georgia had in her compact of cession to the United States of the territory of Alabama granted the municipal right of sovereignty and eminent domain, "such stipulation would have been void and inoperative, because the United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain within the limits of a State or elsewhere except in the cases in which it is expressly granted."

Hence it was held in that case that the shores of navigable waters and the soils under them were not granted by the Constitution of the United States, but were reserved to the States, respectively, and that Alabama, though a new State, had after admission the same rights, sovereignty, and jurisdiction over the subject as the original States. This was reaffirmed in *Gilman v. Philadelphia* (1865) (3 Wall. (U. S.), 713).

These authorities invite attention to two important matters bearing on the question, one the extent of ownership by the people and the States of the navigable waters and the soils under them, and the riparian rights of the people and States: All of which are involved, when the United States seeks to acquire lands for forest purposes, and affected by the constitutional question.

The other not constitutional but extremely important, as to whether the States or National Government shall exercise jurisdiction over lands so acquired. The United States can only exercise authority when lands are purchased by the consent of the legislatures of the States, in which the same shall be for the erection of forts, magazines, and arsenals, dock yards, and other needful buildings; therefore, it seems plain that the United States can not, even with the consent of the States, exercise jurisdiction, and if the United States purchases lands as contemplated, the same will forever remain subject to State power.

The National Government can not acquire land for national forest purposes unless that power is conferred upon Congress by the Constitution. Congress can not exercise this right unless it is necessary to accomplish some object within the authority of Congress. A government of limited power can not afford to exercise a power it does not enjoy when the exercise of the power is at the expense of the creator of the government of the limited power. The people created the National Government by adopting the Constitution, giving it limited power only, and defined the powers by enumeration. So jealous were the States of the new sovereign, and so determined to enjoy rights not delegated, that, notwithstanding it was universally conceded by the framers of the new government that no power could be exercised unless conferred by the Constitution, the tenth amendment to the Constitution was adopted:

"Powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

In speaking of this amendment, the Supreme Court of the United States, in *Kansas v. Colorado* (206 U. S., 46), said in part:

"This amendment, which was seemingly adopted with prescience of just such contention as the present, disclosed the widespread fear that the National Government might, under the pressure of a supposed general welfare, attempt to exercise powers which had not been granted. With equal determination the framers intended that no such assumption should ever find justification in the organic act, and that if in the future further powers seemed necessary they should be granted by the people in the manner they had provided for amending that act."

All power is vested in the United States, the several States, or the people of the United States. What power is not enjoyed by the United States is with the States or the people. The States and the people have some constitutional rights, even if there is nothing more involved than some mountainous country and forests of timber of no great commercial value. If the Federal Government lacks the power, and the States give their consent to the legislation, it will not confer power on the United States, as the States can not enlarge the powers of the Federal Government in that way. The National Government can not afford to invade a State and take from the people, in violation of their reserved rights, the navigable waters and the soils under them, and riparian rights of the people and the States, and private lands or the lands of a State, for any purpose unless the power exists, and if the power exists and is legitimate and within the scope of the Constitution, its exercise can not be questioned by the courts and ought to be acquiesced in by the people; but if the power does not exist, no matter how necessary, proper, and beneficial to the people, its exercise can and in time will be questioned, and the people will lose confidence in the National Government if attempts are made to violate their rights and exercise powers not conferred by the Constitution.

The National Government can never be maintained and perpetuated unless it keeps within its just powers. An unwarranted exercise of power when not conferred by the Constitution may be overlooked when necessary to save the life of the nation. It will never be overlooked or forgotten if there be unwarranted Federal action or the rights of the people or the States are involved, even if the occasion

and demand is great. It may look like a small and unimportant matter and meet the approval of public opinion for the Federal Government to invade a State and condemn lands for forest purposes. But if the power is lacking the principle is great, and it is the duty of Congress to jealously guard the rights of the States and not attempt to exercise powers not conferred. There is no dispute but what the National Government has authority to take land by right of eminent domain whenever the use of the land is necessary in furtherance of the execution of any power given the National Government by the Constitution.

No one questions but what the United States can acquire lands for military purposes; for the erection of public buildings, such as post-offices and court-houses; in the interest of coast survey; for the purpose of erecting light-houses, under the powers conferred by the Constitution. But in each such case the controlling question is as to whether or not the use to which the land is to be put is a public one. That is, in other words, the power to act must be found in the Constitution, and after the power is ascertained it must be found that the use is public. It is unnecessary to determine whether the use is public when the power is wanting. In other words, as more directly applicable to this matter, Congress having power to regulate commerce between the States has an unquestioned right to improve navigable streams, and may, for that purpose and to that end, take land whenever in the judgment of Congress it is necessary to the proper exercise of that power. But an entirely different question is presented when the United States attempts to acquire forest lands because it is claimed by some, not by all, that it will cause it to rain and thereby increase the flow of the stream. If the use of the land is to assist in the execution of some power of government a different question is presented.

The important question arises: Has the National Government the power under the Constitution to acquire lands for the purpose of national forestry purposes, according to the words of the resolution? If so, unquestionably Congress has power to make all laws necessary and proper to carry that power into execution. There is no difference as far as the question herein is concerned between the right to purchase and the right to condemn. For the purpose of answering the House, the acquisition by purchase and condemnation may be treated together, and acquisition by the words "or otherwise" may be treated as including gifts or excludable as immaterial. A careful reading of all the enumerated powers contained in the Constitution fails to disclose any authority on the part of Congress to acquire lands in a State by condemnation or purchase for national forestry purposes. Not that express power to acquire lands for national forestry purposes must be found in the Constitution in so many words among the enumerated powers, but an express power must be first found that can be executed by the acquisition of lands for forestry purposes. The express power is placed in the Constitution to authorize Congress to act. Then the question arises: Is the proposed act to acquire lands within the meaning of the Constitution necessary and proper to carry the express power into execution?

Marshall, Chief Justice, has told Congress how legislation can be constitutional within that power. Congress must have discretion to exercise the power in a manner most beneficial to the people. The end must be legitimate and within the scope of the Constitution, then all appropriate means plainly adapted to that end, not prohibited, but consistent with the letter and spirit of the Constitution, are constitutional. As illustrated, by the power given Congress "to raise and support armies." It is supposed that Congress will exercise the power most beneficial to the people as to the size of the Army, pay of the Army, and how cared for, etc. And all power of Congress to provide for the particular thing named is not to be found in express words in the Constitution. The same might be said of the familiar power to establish post-offices and post-roads that will secure transportation and delivery of the mails, and appropriate buildings. As applied to the matter before the committee, unless an aid and betterment of navigation, it is clearly unconstitutional.

Then the further question arises: Is the acquisition of lands for forest reserves a necessary and proper act to carry into execution the power to regulate commerce? Still further: Is Congress exercising a constitutional discretion most beneficial to the people when it seeks to acquire mountains and forests, unless it appears the best, cheapest, and most legitimate means to control the flow of streams and improvement of navigation? An express power must be found in the Constitution. It was impossible for the Constitution to call by name or state all Congress could do. For to mention any specific act under any one express power would exclude things not mentioned and limit unnecessarily the power of Congress; therefore much is left to the wise and just discretion of Congress in legislating pursuant to the express power granted. And the limitation of that power, so aptly stated by Marshall, Chief Justice, can not be improved upon. But it is plain to be seen that legislation pursuant to an express power is subject to the limitations cited.

Would it be constitutional for Congress in the exercise of its discretion to buy a site for a small public building, to condemn 40 acres of land and interfere with as many people when 1 acre of land would be sufficient? When an express power is found that will justify legislation to carry that power into execution, it is still subject to constitutional limitations. Is the power sought to be exercised by Congress fairly deducible from the express power granted? Is the power to acquire land for forestry purposes fairly deducible from the power to regulate commerce? Would it be an honest exercise of discretion for the manifest interests of the people? This feature must be closely scanned or everything popular and demanded by the people will soon be considered constitutional, and constitutional law will soon be a thing of the past.

A careful reading of the resolution discloses that the object sought is not the regulation of commerce; that the object of the acquisition of land is for national forest purposes, though incidentally it may be an aid to commerce. And it has been suggested that the United States v. Gettysburg Electric Railway Company (160 U. S., 668), decided in 1896, is authority for the constitutionality of the proposed measure. In that case the United States sought to condemn lands for the purpose of preserving the lines of battle at Gettysburg, Pa., and for marking with tablets the position occupied by the various commands of the armies of the Potomac and of northern Virginia on that field. The Supreme Court held that the right of condemnation existed; that the power to acquire and condemn existed, having been conferred by the Constitution, and that the use to which the lands were to be put was a public one. The Constitution gives Congress the power to declare war; to raise and support armies; to provide and maintain a navy. It was held by the court that the end to be attained was within that power. The facts brought the case within the doctrine of Marshall, Chief Justice, and the court in part said:

"That the battle of Gettysburg was one of the great battles of the

world. The numbers contained in the opposing armies were great; the sacrifice of life was dreadful, while the bravery and, indeed, heroism displayed by both the contending forces ranked with the highest exhibition of those qualities ever made by man. The importance of the issue involved in the contest of which this great battle was a part can not be overestimated. The existence of the Government itself and the perpetuity of our institutions depended upon the result. Valuable lessons in the art of war can now be learned from the examination of this great battlefield in connection with the history of the events which there took place. Can it be that the Government is without power to preserve the land and properly mark out the various sites upon which this struggle took place? Can it not erect monuments provided for by those acts of Congress or even take possession of the field of battle in the name and for the benefit of all the citizens of the country for the present and for the future? Such a use seems necessarily not only a public use, but one so closely connected with the welfare of the Republic itself as to be within the powers granted Congress by the Constitution for the purpose of protecting and preserving the whole country."

This case certainly must be regarded as an extreme application of the doctrine of Marshall, Chief Justice. If there is any doubt in the mind of any person after reading the Constitution, that doubt will be readily dispelled by the foregoing doubtful case and the further case of *Kansas v. Colorado* (206 U. S., 46). The United States intervened. From the statement of the case it appears that the United States was seeking to reclaim about 60,000,000 acres of land belonging to the United States within the arid region, and in the opinion of the court, speaking of the claim of the United States, it is said, on page 86:

"It rests its petition of intervention upon its alleged duty of legislating for the reclamation of arid lands."

And on page 87 the court further says:

"Turning to the enumeration of the powers granted to Congress by the eighth section of the first article of the Constitution, it is enough to say that no one of them by any implication refers to the reclamation of arid lands."

Section 8 contains the power of Congress to regulate interstate commerce, yet the court says, on page 88:

"We must look beyond section 8 for Congressional authority over arid lands."

And on page 91 the court further says:

"But, as our national territory has been enlarged, we have within our borders extensive tracts of arid lands which ought to be reclaimed, and it may well be that no power is adequate for their reclamation other than that of the National Government. But if no such power has been granted none can be exercised."

And the court reached the conclusion that the United States under the Constitution could not for want of power reclaim arid lands under the commerce clause of the Constitution or any other express power. There is practically no difference between reclaiming arid lands for agricultural purposes and acquiring lands for forestry purposes. The facts in the case, the conclusions reached by the court, and the views of those insisting upon the constitutionality of the proposed legislation can profitably be restated by an extract taken from an argument made and brief filed on behalf of the constitutionality of the proposed measure:

"The United States of America filed its petition of intervention, and alleged that within the watershed of the Arkansas River are 1,000,000 acres of public lands, uninhabitable and unsalable unless rendered so by the impounding of waters in this watershed to reclaim this land, that legislation of Congress has sanctioned the use of these waters in this arid region, and that under the reclamation act of June 17, 1902, \$1,000,000 have been expended in procuring sites for reservoirs and dams."

"This contention brought directly to the court the question whether the amount of the flow of the waters of the Arkansas River is subject to the authority and control of the United States. The United States claimed that in and near the river, as it runs through Kansas and Colorado, are large tracts of arid lands; that the National Government itself is the owner of many thousands of acres, and that it has the right to make such legislative provision as in its judgment is needed for the reclamation of all these arid lands and for that purpose to appropriate the accessible waters."

"This claim, says the Supreme Court, involves the question whether the reclamation of arid lands is one of the powers granted to the General Government. Certainly it is not, for in the enumeration of the powers granted to Congress by the eighth section of the first article of the Constitution we can not find one which by any implication refers to the reclamation of arid lands."

"That clause only decides that the reclamation of arid lands is not one of the powers granted to the General Government, and it was not claimed to be a means by which an express power was to be carried into execution."

A concession that the reclamation of arid lands is not within any power of Congress.

Assuming and conceding that Congress has plenary power over all navigable streams under the commerce clause of the Constitution, the important question is, Is the pending measure needed to improve navigation? Would it be the consensus of opinion on the part of a large number of men, competent to speak upon the subject, that the acquisition of lands for forestry purposes is needed within the constitutional discretion of Congress to improve navigation? The power simply includes the ordinary means of executing the power with reference to the power and dignity of the nation, the rights of the States and of the people, the object, purpose, and end sought without attempt to exercise powers not conferred. If not expressed, is it properly incident to an express power necessary to its execution? But it is argued that the end sought is the control of stream flow to improve navigation. No one questions the right and power of Congress, under its power to regulate commerce between the States, to make all laws necessary and proper to carry that power into execution, which will include the improvement of navigation. Unquestionably Congress has the power to improve navigation under its power to regulate commerce, for commerce includes navigation and intercourse, transportation by water as well as by land, and control of all accessible waters. The main proposition is to acquire lands for forestry purposes—just how that will regulate stream flow or improve navigation is, for the present, rather speculative.

It is very clear that the only end sought is the retention and preservation of forests—that is, an increase of the flow of the stream—and improvement of navigation is not the end sought, not the principal matter. Unquestionably Congress has power to increase the flow of



streams and improve navigation under its power to regulate commerce. Hence it is argued that the retention and preservation of forests will increase the flow of streams and improve navigation so as to invoke the commerce clause of the Constitution, and, under that power, acquire lands for forestry purposes without any reference to the effect upon the flow of streams or improvement of navigation. If the end sought is the increase of the flow of streams and improvement of navigation, and that is the principal matter, why not apply to Congress for the improvement of the rivers involved; and, if Congress in its wisdom decides upon the improvement, no person will risk his reputation by insisting that it is necessary and proper to acquire the mountains and forests involved in order to improve the navigation.

What is the primary question? In common fairness it must be said, the acquisition of lands for forestry purposes, and that the improvement of navigation is but an incidental matter. This is not said to beg the question but to better develop the constitutional question involved. Does any person believe for a moment that if a proposition was made to Congress to appropriate \$5,000,000 for the improvement of the navigation of the rivers involved it would command one vote? Has it not been determined by Congress at the present time not to make any appropriation for the improvements of rivers and harbors this year? It is a very important question and should be rightly determined. We should not enter upon such an unknown sea of difficulties, unless the power is clear, for no one can tell when this expenditure of public money will end.

The United States is the moving party, not the States. That is, the States are not taking any action whatever against the United States; are not interfering with the flow of any stream or assuming any right or control over navigation or commerce. On the contrary, it is the United States asserting the right to enter States and take by purchase, gift, or condemnation lands for national forestry purposes. The interested States may be willing, the people of these States may be willing, that Congress should in this manner exceed its powers for their benefit, but this does not justify unconstitutional action upon the part of Congress, and will sooner or later be cited as a precedent—as a usurpation of power on the part of Congress.

The lands to be selected may be more valuable for the regulation of stream flow than for any other purpose and yet might not be an aid to navigation or even increase the flow of the stream, and not be valuable for either. How will the transfer of the title to these mountains and forests to the United States increase the flow of the stream or improve navigation? The argument on behalf of the measure seems to establish several propositions: That the reclamation of the forests is a public one for the benefit of the people; that the removal of the forests permits the rainfall to run at once over the land into the streams and soon disappear; that the retention of the forests increases the quantity of leaves and other vegetable matter, so that the rainfall percolates into the ground. It must be conceded that the flow of the stream depends upon the quantity of rainfall and its velocity. Good sense discloses that in times of great and continuous drought it takes an immense amount of rain to affect the flow of a stream. If rain falls slowly, it percolates into the ground—swamp and low places—and not until the ground is well soaked is there an appreciable effect upon stream flow.

No person will want to risk his reputation by saying that commerce by water transportation can be successfully carried on by means of rainfall, or that the acquisition of lands by the United States will increase rainfall or improve navigation. When there are large quantities of snow passing away and rainfalls producing floods, the flow of the stream will necessarily be increased, but practically as soon as the flood ceases the stream flow will recede to normal depths, and the water in the ground can not be depended upon to provide for navigation. In order to follow and accurately determine the matter, the nature of the transaction must be considered. It is either to acquire lands for forestry purposes, or to improve navigation of streams. If the former, it can not be done, for there is no express power. If the latter, it can not be done under the construction given by Marshall, Chief Justice. For to purchase mountains and forests to improve navigation would not be exercising a discretion most beneficial to the people. The end would not be legitimate; not within the scope of the Constitution; it would not be an appropriate means adapted to that end, and would not consist with the letter or spirit of the Constitution.

In *Kansas v. Colorado* the Supreme Court of the United States denied the right of the United States to reclaim arid lands, while the case concedes it would be a great public benefit and have a tendency to improve navigation. It is not a question of strict construction of the Constitution on the one hand and of a broad and liberal construction on the other, but an ascertainment of the line of demarcation between State and Federal power, with justice to both.

Where in the Constitution is to be found the power in the National Government to reclaim its own arid lands or to acquire arid lands for the purpose of reclamation? Nowhere, not even under the power to regulate commerce. When the reclaimed lands will likely increase the rainfall, thereby increasing the flow of the stream, answers the Supreme Court in *Kansas v. Colorado*. Where in the Constitution is to be found any power in the National Government to acquire lands for national forestry purposes? Nowhere, answers the Constitution and the Supreme Court of the United States in *Kansas v. Colorado*, for the case in *Kansas v. Colorado* and the question before your committee are absolutely identical.

The action of Congress to be constitutional must depend upon the powers enumerated in the Constitution. To justify action one at least of the enumerated powers must expressly provide for the legislation, or it must be justified by that power in the constitutional manner indicated, as in case of power to declare war. Here is an express power, and Congress can for any reason make a declaration of war against any nation, and its action can not be questioned by the courts. But having declared war many questions may arise as to necessary and proper action to make the declaration of war effective, and this must be determined by construction, as to its being necessary and proper; whether an appropriate means to carry the war power into execution in a manner most beneficial to the people. Is the end legitimate and within the scope of the Constitution? For these matters are not expressly provided for—such as the size of the Army, how raised, by enlistment or draft; as to discipline; whether regulars or volunteers; as to the arm of service, the term of service. All of this and many more show what legislation is a necessary and proper execution of the power.

The doctrine as to what can be done pursuant to an express power so as to make it operative and effective presents a most interesting question in our constitutional history. There is great danger of the powerful influence of two extremes, one for anything within the will of Congress, the other to so limit power as to prevent legislation when wise, necessary, and constitutional. We should in the interest of the

people avoid both extremes. Congress should never shrink from exercising all of its full power, when beneficial to the people, and always be careful to avoid an unconstitutional exercise of power. The constitutionality of the proposed measure is worthy of careful consideration for the effect of the proposed legislation upon the future of the nation.

If Congress has power to acquire the lands in question, there is nothing to prevent the national power from acquiring any and all lands of a State and all the worthless lands of all the States the people desire to sell, and it will increase friction between the State and Federal Government over the question of jurisdiction. Forests and worthless lands will be for sale all over the nation, and the power of the States will be subordinate to the desire of the people to unload on the nation lands that the poorest emigrants will not locate upon. So we agree that the power to regulate commerce is expressly provided for, and according to the broad definition given that term by the courts and the commercial world much can be constitutionally done, and the growing wants of the people will call for full exercise of all the power Congress enjoys. But this will not justify Congress assuming the reclamation of forests under the remote and speculative claim that it will improve navigation.

It does not change the constitutional aspect, because the lands can be purchased by agreement with the owners; but if the power is exercised and the owners refuse to sell they will have to submit to the land being taken from them, and this raises a very important question—whether the Government would be discharging its constitutional duty in taking from private owners their property. Even assuming that the Government can go and take property, it certainly must be absolutely needed for the use of the Government, for, as the Supreme Court of the United States said in *Van Brocklin and Another v. State of Tennessee and Others*, 117 U. S., 151, page 158:

"The United States did not and can not hold property, as a monarch may, for private or personal purposes. All the property and revenues of the United States must be held and applied, as all taxes, duties, imposts, and excises must be laid and collected, to pay the debts and provide for the common defense and general welfare of the United States."

It does not satisfy the Constitution that it would be beneficial to the people or popular with them, or that the Government can use the same, or that the Government needs it. The power to acquire it must first be ascertained independent of all these considerations, and then if the power is ascertained, the question arises as to whether or not the end is legitimate, whether it is fairly and honestly exercised in a manner beneficial to the people. It must absolutely be needed for the use of the Government, in the furtherance of some one of the enumerated powers.

It can not be doubted that the original idea is the acquisition of lands for forestry purposes. This is easily ascertained from what has been said in various ways in advocacy of the measure. The improvement of navigation to those supporting the proposition is a matter of secondary, if of any importance, suggested so as to bring it under the commerce clause.

There is another feature of the case to be considered, tending to show that the primary object is the acquisition of lands for forest purposes, and not for the improvement of navigation. Congress will not be following constitutional lines if it attempts, under the circumstances of the case, to improve navigation by acquiring lands, for Congress has no constitutional authority to act when there is no commerce. That is, it would be exceeding its power, within the definition of Marshall, C. J.

Every person interested knows that Congress does not intend by the purchase or by the acquisition of the lands to take any steps affirmatively toward the improvement of the rivers affected; that the improvement of navigation will go on just the same with or without the acquisition of the lands, and the talk of improvement of navigation and the regulation of commerce is to secure the lands for forest purposes, without reference to the effect upon navigation or commerce. It is a matter of common knowledge that the purchase of the lands will not bring commerce; that the increase of the flow of streams is not called for in the interest of commerce; that many of the streams have never been used and can not be made navigable as instrumentalities of commerce.

In other words, the demand for the acquisition of the lands is not in the interest of either navigation or commerce. It is well known that many acres of the land sought for forest purposes will not be needed or considered in connection with either navigation or commerce, and under any theory can not be made very favorable for either. As showing at least how necessary it is that the question be thoroughly examined and carefully understood several of the earnest advocates of the measure insist that it is not necessary to take the land. The same object can be accomplished by the Federal Government preventing the cutting of the timber, and thereby improve navigation. It is too plain for discussion that the sole purpose and object is the acquisition of lands for forest purposes; that the thought of improving navigation or regulating commerce is not to be seriously considered; that the purchase of the lands will not improve navigation; that there is no commerce to be subserved. It is a well-known fact that much of the land in question is so remote that, while it would be considered a part of the forest reserve, it could under no circumstances be considered valuable for increase of the flow of streams or for the purposes of navigation. So the whole proposition must be considered as an acquisition of lands for forest purposes.

It does not require any evidence of the situation outside of the record for Congress to act correctly. That is, the communication sent to the committee by the House is full enough. Congress can not shirk its constitutional duty, for the proposition is plainly and sufficiently presented to Congress. Can Congress acquire lands for forest reserves? Can Congress acquire lands for forest purposes because of the increase of the flow of the stream and consequent regulation of commerce?

If this can be constitutionally done, under the commerce clause of the Constitution, the doors will be opened wide enough to dispense with all State power and rights and do anything that is popular with the people or quite generally demanded. If the constitutionality of the measure is to be determined by the amount of an appropriation, we shall have no guide for future action except the amount of money involved. Some of the States of the Union have been very sensitive about excessive Federal power, but raise no voice against its exercise when the benefits accrue to them. Forever hereafter they should hold their peace.

Restating the proposition briefly: Congress has express power to regulate commerce between the States; but a great question presents itself when it is asked what can be done under and pursuant to that

power. The Constitution says Congress shall have power to make all laws necessary and proper to carry that power into execution. The fact that Congress has express power to make all laws necessary and proper to carry the enumerated powers into execution does not enlarge the power of Congress, for without it, unquestionably, Congress can do the same thing—that is, exercise all powers to the same extent as now. Still, we have but a limited idea as to what can be done, even when we keep in mind the rule laid down by Marshall, C. J., and carefully consider the many things the Supreme Court has said Congress has power to do. The great growth of the nation in population, business, and commerce, makes many demands upon Congress for legislation under that power, and no narrow construction should be adopted that will prevent proper Congressional action. No statement can be made that will include all Congress can do under that power. The boundaries can not be marked or limits to its exercise of legislative power prescribed.

The framework of the Constitution shows how thoroughly the fathers understood what they were doing. The best way to reach a correct conclusion is to consider what is proposed, what is the matter sought to be done, the end contemplated. With that ascertained, the question is, Can it be constitutionally accomplished within the construction stated by Marshall, C. J., the proposition being for Congress "to acquire for national forest purposes lands more valuable for the regulation of stream flow than for any other purpose, does it Under what power, we ask? The answer is, the power to regulate commerce. Assuming the fact to be that the land is more valuable for the regulation of stream flow than for any other purpose, does it prove, within the meaning of the Constitution, that its purchase will improve navigation?

We fully appreciate the width and depth of the power that must be ascertained by construction, and readily concede that the power is so great that Congress has the right to improve navigable streams, and for that purpose may take lands. But are we, when we acquire lands for national forest purposes, regulating commerce or improving navigable streams? If we acquire all of the lands in the United States for national forest purposes, will it improve navigable streams or in any manner operate as a regulation of commerce? Assuming that under its power to regulate commerce Congress has power to improve navigable streams, would anyone say Congress was exercising that discretion with respect to the means employed, most beneficial to the people, when, in attempting to improve the navigation of streams, it acquires for national forest purposes lands more valuable for stream flow than for any other purposes?

It does not change the constitutional character of the matter when the selection is limited to lands more valuable for stream flow than for any other purposes. That is, the fact that it is so valuable, will not make it constitutional to take the lands for national forest purposes. Is the taking of lands for national forest purposes a substantial and practical way of improving navigation? Would the end be legitimate? Would the means employed be appropriate and plainly adapted to that end? How much will navigable streams be improved by the United States purchasing lands for national forest purposes, even if more valuable for stream flow than for any other purposes? Has Congress exercised that discretion with respect to the means employed in the manner most beneficial to the people when it undertakes to improve navigable streams by acquiring lands for forest purposes more valuable for the regulation for stream flow than for any other purpose? Could it fairly be said that by so doing Congress has kept itself within the scope of the Constitution? Are these means that can be employed under the Constitution, or would the same be employed even as a business proposition?

If the purchase of the lands will not improve navigable streams, notwithstanding the same are taken for national forest purposes, it is not constitutional. There is no constitutional means for the United States to acquire lands unless it is necessary and proper to carry into execution some one of the enumerated express powers of government, and then strictly within the construction given by Marshall, C. J. Can it be said that the United States can enter any State and acquire lands for public parks? If not, the United States can not enter a State and take lands for forest purposes.

If the primary purpose is to improve navigation, Congress can declare to what extent the improvement shall be made, and, having exercised its discretion, the courts can not go behind it. But when Congress continues the exercise of its powers, improving navigation to the extent of declaring that there shall be taken for national forest purposes lands more valuable for the regulation of stream flow than for any other purpose, this discretion can be questioned in the courts. At the outset, therefore, it becomes the duty of Congress to consider whether such action is constitutional; whether this high duty assigned to it is being executed in a manner most beneficial to the people; whether the acquisition of the land is legitimate. Is it an honest, fair, and constitutional exercise of power? Is the acquisition of the lands necessary for the improvement of navigation?

As suggested in *Kansas v. Colorado*, if this is necessary for the welfare of the people, let us amend the Constitution, but do not violate great principles of constitutional law under the guise of regulating commerce. The power of Congress is ample to satisfy the wants of the people, as far as regulating commerce is concerned, but not broad enough to acquire lands for forestry purposes.

In answer to the foregoing resolution of inquiry, the committee submit the following:

"Resolved, That the committee is of the opinion that the Federal Government has no power to acquire lands within a State solely for forest reserves; but under its constitutional power over navigation the Federal Government may appropriate for the purchase of lands and forest reserves in a State, provided it is made clearly to appear that such lands and forest reserves have a direct and substantial connection with the conservation and improvement of the navigability of a river actually navigable in whole or in part, and that any appropriation made therefor is limited to that purpose.

"Resolved, That the bills referred to in the resolutions of the House (H. R. 10456 and H. R. 10457) are not confined to such last-mentioned purpose and are therefore unconstitutional."

I concur in the foregoing views of Mr. JENKINS and I dissent from that portion of the resolution adopted by the committee reading as follows:

"But under its constitutional power over navigation the Federal Government may appropriate for the purchase of lands and forest reserves in a State, provided it is made clearly to appear that such lands and forest reserves have a direct and substantial connection with the conservation and improvement of the navigability of a river actually navigable in whole or in part."

GEORGE R. MALBY.

#### VIEWS OF RICHARD WAYNE PARKER.

The resolution adopted by the committee is as follows:

"Resolved, That the committee is of the opinion that the Federal Government has no power to acquire lands within a State solely for forest reserves; but under its constitutional power over navigation the Federal Government may appropriate for the purchase of lands and forest reserves in a State, provided it is made clearly to appear that such lands and forest reserves have a direct and substantial connection with the conservation and improvement of the navigability of a river actually navigable in whole or in part, and that any appropriation made therefor is limited to that purpose.

"Resolved, That the bills referred to in the resolutions of the House (H. R. 10456 and H. R. 10457) are not confined to such last-mentioned purpose and are therefore unconstitutional."

I agree with the resolution adopted by the committee that the bills submitted are unconstitutional, that the important duty of establishing and maintaining forest reserves within each State is for that State, and that the United States has no interest even in the flow of streams, except for the regulation of commerce, including the maintenance, improvement, and construction of navigable channels, whether natural or artificial, which may be used in interstate and foreign commerce; but I find myself unable to agree that in the interests of navigation the United States can purchase and control thousands of square miles of dry land and take that land out of the control and taxable jurisdiction of the several States. It is not to my mind at all clear that such power was given by the Constitution or can be included within the power to regulate commerce; nor is it at all clear that any State legislature has the right to convey away part of the State for purposes not within the United States Constitution and to bar all future legislatures and the people of the State from the benefits resulting from improvement and taxation of those lands.

No one can exaggerate the importance of the establishment and maintenance of forest reserves, especially upon the headwaters of our various rivers. Their necessity is being realized by all the States. In New York and New Jersey the mountain area is fast being segregated for the water supply of great cities. The roots of the monarchs of the forest hold back rainfall, regulate and even the flow of streams, moderate freshets, protect the slopes from wash and waste and the river bottoms and channels from deposits of sand and gravel, and preserve a flow for the dry season. Forests even seem to temper the climate, and they constantly lay by stores of lumber that is becoming more and more valuable every day. These are great public considerations, but, like many other public matters, they seem to belong to the several States. It is true that, directly or indirectly, floods and freshets from the headwaters will affect the channel and navigation of a stream and may have to be provided against. Such provision by engineering works on the streams, as by dams, ponds, etc., is certainly within the power of the United States, whose rights over navigable channels used in interstate and foreign commerce are paramount for the construction, improvement, and maintenance of such channels.

There seems, however, to be a recognized legal distinction between rights in the stream and rights on the land whose surface sheds the rainfall into that stream. We may note examples.

No action lies by any person against his neighbor for flow of surface water.

No action lies for changes in the amount or character of stream flow by ordinary use of the land higher up, such as clearing, tillage, etc., even if the stream be muddled so as, for instance, to damage a paper mill. These principles are established in a host of cases, wherein it was held that every man's right is subject to the right of his neighbor to use his own property in the ordinary way. In like manner it may well be held that the rights of the United States in the waters are subject to the rights of the people of the various States to use the dry land in ordinary ways, as they may deem proper, and that a grant of power to construct navigable waterways may not be used to divest them of that land except so far as it is necessary to engineering work connected with such waterways. By the act of April 28, 1888 (25 Stat. L., 94), any land may be acquired needed to maintain, operate, or prosecute work for the improvement of rivers and harbors for which provision has been made by law. This statute is quoted in Mr. BRANTLEY's views, page 30, and seems to cover the entire jurisdiction of the United States. If it be true that headwater forests are land that is so needed, the claim can be made under this statute in court. To my mind it is certainly doubtful, and I can not concur in the opinion of the committee on this point.

It seems still more a question whether any State can be divested by the legislature of its control over its territory. The importance of mountain land to every State is growing day by day if only for aqueducts. The State holds the rainfall and streams as a sacred trust for its own citizens, whose life depends upon a daily supply of water. This principle has just been laid down by the Supreme Court in the case of the State of New Jersey against the Hudson County Water Company. It can never be foreseen what value may lie in territory which the State is asked to grant away and put out of the march of improvement.

For these reasons I am unable to concur in so much of the resolution adopted by the committee as declares the power of the United States to acquire forests within the States in aid of navigation. The question is at least doubtful.

To restate the matter briefly:

The United States have no interest in the rivers, except for purposes of navigation, and it may fairly be said that the rivers of the Atlantic slope are not navigable above the tidal flow.

It is very hard to see how buying the whole surface of the ground is a question of navigation. There has to be some distinction between land and water. Of course the building of banks and dams, the dredging or digging of the bottom, new channels, or even dams for water supply to a canal are all matters which require the purchase of land, but this is for works on the stream. It is going beyond anything which has ever been hinted to suggest that because the water that falls from the skies runs off the surface into navigable streams that therefore this surface becomes a mere incident of navigation. The United States is a Government of limited powers. In this particular respect it stands in precisely the same position as if it had been authorized by the State to control, maintain, improve, and build navigable waterways anywhere within the State. If these powers were given to a corporation, together with the great governmental power of eminent domain, it could take whatever land should be found necessary for channels or works of navigation, including dams, ponds, feeders, banks, new channels, or cut-offs, but such a company would certainly not have the power to condemn and take dry ground not needed for these works on the theory that the rainfall ran off this ground into their canals. Such a power would mean that they could shut up whole sections of that



State against settlement, improvements, and increased taxable value. Such powers would not be implied in such a grant, nor should they be implied in the grant to the United States by the Constitution.

It is truly said that clearing the ground increases freshets and encourages the formation of bars to the injury of navigation. Tillage does the same, perhaps to a greater extent. So does building a city, paving streets, roofing the houses, and all the devices by which we turn the whole rainfall into the streams as soon as engineering can send it there. The influence upon navigation in these cases is "direct and substantial," but it can hardly be asserted that therefore the United States could acquire the farm or the city, although the committee resolution holds that the Federal Government may appropriate "for the purchase of lands \* \* \* in a State, provided it is made clearly to appear that such lands have a direct and substantial connection with the maintenance and improvement of the navigability of a river actually navigable in whole or in part." It has been held that the United States can have no title in docks, wharves, and piers, or in the soil under the river, except for engineering works to aid navigation. The same principle applies, and "control stops with the shore."

RICHARD WAYNE PARKER.

#### VIEWS OF MESSRS. LITTLEFIELD, DIEKEMA, AND BANNON.

No money can be constitutionally appropriated from the Federal Treasury except for the accomplishment of a Federal purpose, the proper discharge or exercise of a Federal function. It has long been settled that the Federal Government is a Government of granted, enumerated powers, under which only such undefined powers can be exercised as are "appropriate and plainly adapted" to the effective practical exercise of the granted, enumerated powers. (Kansas v. Colorado, 206 U. S. 88.)

When a project is suggested as the subject-matter of a Federal appropriation the only question to be determined is, Does the project come fairly within the scope of these granted, enumerated powers or the undefined powers "appropriate and plainly adapted to" their effective practical exercise. If it does not, then the Federal Government has no constitutional power to appropriate the public money to accomplish such a purpose. The mere size of a project, the fact that it involves immense values, affects millions of people, is distributed throughout the whole geographical area of the United States, leading the unintelligent and uninformed for those reasons to describe it as national, does not even remotely tend to establish the fact that it is included within any granted enumerated power or an undefined power "appropriate and plainly adapted to" its effective and practical exercise.

Bigness no doubt appeals to the imagination and engenders desire for Federal control, but this consideration has no place in determining a result which depends upon the exercise of the reasoning faculties. The fact that the project is large or small, unimportant or important, does not reach the threshold of the discussion in determining whether it is included in a granted power. Nor is it a question as to whether certain powers could be more advantageously and effectively exercised by the Federal Government, and therefore ought to have been granted. It is not a question as to what ought or might have been granted; the only question is what is the power that was granted. It is claimed, and it is true, that the preservation of the forests by the application of scientific methods of conservation is essential to the maintenance of an adequate supply of timber, lumber, and fuel, etc., and means the preservation of natural resources of almost incalculable value. It is also claimed, and we think correctly, that the preservation of the forests is of very great importance in the development, maintenance, and conservation of water powers along the streams that have their rise in the watersheds covered by these forests. Our attention has not been called to, and we have not been able to find, any power granted to the Federal Government to which, either directly or by reasonable implication or necessary inference, either of these purposes may with any propriety be referred.

Moreover, it seems clear that the Government can only constitutionally acquire property for a constitutional Federal purpose, which clearly constitutes a public use, and therefore what it can constitutionally acquire by purchase it also has the right to acquire by the exercise of eminent domain. Certainly eminent domain can not be exercised except for a public use. Measured by this standard the purpose disclosed in the bills referred to in the resolution (H. R. 10456, H. R. 10457—they are identical in terms) is clearly not a Federal purpose and would not justify any appropriation. The purpose upon which they are predicated is, section 1, "To acquire for national forest purposes," and in section 3, "Shall have consented to the acquisition of such land by the United States for national forest purposes." We are unable to find, and our attention has not been called to, any grant of power to the Federal Government which includes, even indirectly, these purposes. (206 U. S. 46.) It is, however, claimed that although these bills do not proceed upon that hypothesis, that the appropriation can be justified on the ground of the relation of the forests on the watershed, to the navigability of the streams that have their sources in such watersheds.

It is said that the deforesting of the watersheds precipitates into the streams soil and silt that is carried downstream until it accumulates in such quantities as to substantially obstruct navigation, and make it necessary to remove such obstruction in order to preserve their navigability; and that the watershed when properly covered with forest retains the rainfall, so that it is gradually distributed throughout the year, and thus increases the flow in navigable portions of the river, so as to preserve their navigability, when otherwise they would be unnavigable during the dry portions of the year, and that for the purpose of thus protecting and preserving the navigability of the navigable portions of the river Congress can make these appropriations for the acquisition and control of the forests on the watersheds. The control of the navigable waters of the United States has been recognized as within the Federal jurisdiction and subject to all necessary appropriate legislation in a long line of decisions from (not to go farther back) *Gilman v. Philadelphia* (3 Wall., 724), in which the court said:

"Commerce includes navigation. The power to regulate commerce comprehends the control for that purpose, and to the extent necessary of all the navigable rivers of the United States which are accessible from a State other than those in which they lie. For this purpose they are the public property of the nation and subject to all the requisite legislation by Congress. This necessarily includes the power to keep these open and free from any obstruction to their navigation interposed by the States or otherwise, to remove such obstructions where they exist, and to provide, by such sanctions as they deem proper, against the occurrence of the evil and for the punishment of the offenders."

to Kansas v. Colorado (supra), where the court denied the petition of the United States to intervene to protect its alleged interests in the

irrigation of arid lands, holding that the United States had no constitutional power to provide for the irrigation of lands other than its own, the court expressly stating that such denial was "without prejudice to the rights of the United States to take such action as it shall deem necessary to preserve or improve the navigability of the Arkansas River." (117.)

The power of the Federal Government to remove obstructions from navigable rivers, either by dredging, removal of rocks and ledges, and compelling necessary changes in the construction of bridges, is repeatedly exercised and universally conceded. That the exercise of this power is not confined to the portion of the stream that is within the navigable limits, but extends to obstructions in existence or contemplated, above the point of navigability, is settled by the case of *United States v. Rio Grande Irrigation Company*. (174 U. S., 690.) This was a case where the United States, by the Attorney-General, filed a bill in equity to restrain the defendants from constructing a dam across the Rio Grande River in the Territory of New Mexico, and it was conceded that the Rio Grande River in the limits of New Mexico was not navigable.

The court below denied the prayer and dismissed the bill, and this decision was reversed and the case sent back, with instructions to the court below "to order an inquiry into the question as to whether the intended acts of the defendants in the construction of a dam and in appropriating the waters of the Rio Grande will substantially diminish the navigability of that stream within the limits of present navigability; and if so, to issue a decree restraining these acts to the extent that they will so diminish."

In the course of the opinion by Mr. Justice Brewer (which was unanimous) the court, after referring to the fact that the city of New York had appropriated the waters of the Croton River, a nonnavigable river and a tributary of the Hudson River, and stating that it could do so without question "unless thereby the navigability of the Hudson should be disturbed," used as a significant illustration of the power of Congress the following language: "On the other hand, if the State of New York should, even at a place above the limits of navigability, by appropriation for any domestic purposes, diminish the volume of water which, flowing into the Hudson, make it a navigable stream, to such an extent as to destroy its navigability, undoubtedly the jurisdiction of the National Government would arise and its power to restrain such appropriation be unquestioned." (709.)

In *United States v. Lynah* (188 U. S., 445), it appeared that the United States for the purpose of improving the navigability of the Savannah River constructed "certain dams, training walls, and other obstructions" which it was claimed flooded the lands belonging to Lynah so "as to substantially destroy their value." The question in the case was whether "the Government in the exercise of its powers of eminent domain and regulation of commerce" had taken the property of the plaintiff below and should make compensation therefor. It is obvious that if the Congress had no constitutional power to improve the navigability of the river by holding back its flow by the dam, its acts would have been tortious and not the legal basis for the exercise of the right of eminent domain. The case was elaborately argued, and there was a vigorous dissenting opinion by some of the ablest members of the court, the majority holding, however, "that there has been a taking of the lands for public uses, and that the Government is under an implied contract to make just compensation therefor." There is no intimation in either the arguments or the opinions that there was any question as to the right of the Government to erect and maintain the dam for the purposes indicated, and the case must have proceeded upon the theory that exercise of such a right was a constitutional exercise of power. Indeed, the minority opinion in substance declares that the damage was "caused by the lawful exercise of the United States of its power to improve navigation," but insists that it was "damnum absque injuria."

We may therefore consider it settled that the United States may constitutionally expend money in damming the waters of a river to improve its navigability. As the Government has the right to take the land of a private individual at one point in a river by the exercise of the right of eminent domain for the purpose of improving its navigability, it is difficult to see why it can not acquire the land of other individuals, at any other point on the river from its source to its mouth, by purchase or eminent domain (involuntary sale by the owner), for the same purpose to accomplish the same result, especially in view of the fact that it is held that the construction of a dam may be restrained, if it impairs the navigability of the river, though it may be located above the navigable point in a nonnavigable part of the river. The particular means used can not determine the constitutionality of the exercise of the power. If the means are appropriate, the result accomplished is the test. If an artificial reservoir may be created and maintained at one point, no reason is perceived why a natural reservoir may not be restored and maintained at another point, if the purpose and result be the same. The Government has undoubted power to remove obstructions from the navigable part of the river, to prevent obstructions from being placed therein or over the same, to prevent obstructions in the nonnavigable portions that impair its navigability. It would seem to follow that if reforesting the watershed at its source was an appropriate means "plainly adapted to that end" of preventing the depositing in the river of accumulations that would obstruct its navigable portion, that Congress would have the right to acquire and control them for that purpose.

The foresting of the watershed at the source of a river and the prevention of the accumulation of obstruction within its navigable limits, or the improvement of its navigability by increasing the flow of the water therein during the dry season must, in our judgment, be something more than theoretical, technical, fanciful, or negligible. It must be physical, tangible, actual, and substantial, demonstrable by satisfactory competent testimony, in order to justify an appropriation for that purpose. The protection or the improvement of the navigability of the river must also be the real, effective, sole, and not the incidental, purpose of the appropriation. It would not justify an appropriation when the real purpose is the conservation of the supply of the raw material for forestry products, or the development of water powers and the protection or improvement of the navigability of the river is only theoretical or incidental thereto. The improvement or conservation of the navigability of the river must be the only purpose for which the appropriation is made. In such case the fact, if it be a fact, that other useful purposes are also served, does not militate against the exercise of the power to accomplish the real purpose of the appropriation, as a matter of law. As a matter of law, such purposes can not be a part of the purpose, although as a matter of fact they may be among the necessary incidentals of the result. In this connection what constitutes navigability should be stated. This is well settled.

In *The Daniel Ball* (10 Wall., 463) the court said: "Those rivers must be regarded as public navigable rivers in law which are navigable in fact, and they are navigable in fact when they are used or are susceptible of being used in their ordinary condition for highways of commerce, over which trade and travel are or may be conducted in the customary modes of trade and travel on water, and they constitute navigable waters of the United States within the meaning of the acts of Congress in contradistinction of the navigable waters of the State, when they form in their ordinary conditions by themselves or by uniting with other waters a continued highway over which commerce is or may be carried on with other States or foreign countries in the customary modes in which such commerce is conducted by water." \* \* \*

And "It would be a narrow rule to hold that in this country unless a river was capable of being navigated by steam or sail vessels it could not be treated as a public highway. The capability of use by the public for purposes of transportation and commerce affords the true criterion of the navigability of a river, rather than the extent and manner of that use. If it be capable in its natural state of being used for purposes of commerce, no matter in what mode the commerce may be conducted, it is navigable in fact and becomes in law a public river or highway" the court said in *The Montello* (20 Wall., 441). These cases have been cited and approved in numerous cases, which are collected in notes to United States Reports, volume 7, page 366, and volume 8, page 328. Whether the deforesting of the land described in the bill has any physical and tangible connection with the navigability of the rivers which have their sources in the respective watersheds was a subject of controversy before our committee, and upon that question of fact we express no opinion, but upon the hypothesis above set forth we are of the opinion that for that specific purpose, and that purpose only, an appropriation can lawfully be made, and that the legislation therefor must in terms be confined to that purpose. It also follows that no land can lawfully be acquired in excess of what is necessary for the carrying out of that purpose, and the bills before us are not properly limited as to the amount that can be lawfully acquired for the one constitutional purpose for which the appropriation can be made.

C. E. LITTLEFIELD,  
G. J. DIEKEMA,  
HENRY BANNON.

We concur in the foregoing views of Messrs. LITTLEFIELD, DIEKEMA, and BANNON.

D. S. ALEXANDER,  
R. O. MOON.

I concur with the foregoing views except that I regard it as at least very doubtful whether the United States can in any event acquire land in the several States for forest purposes. I file separate views on that subject.

RICHARD WAYNE PARKER.

#### VIEW OF MR. BRANTLEY.

The Committee on the Judiciary has before it House resolution No. 208, which reads as follows:

"Whereas the President, in his message to the Congress at its present session, on December 3, 1907, makes the following recommendation:

"We should acquire in the Appalachian and White Mountain regions all the forest lands that it is possible to acquire for the use of the nation. These lands, because they form a national asset, are as emphatically national as the rivers which they feed, and which flow through so many States before they reach the ocean;" and

"Whereas there have been introduced into the House of Representatives bills for the acquirement of national forests in the Southern Appalachian Mountains and the White Mountains, the same being H. R. 10456 and H. R. 10457, which provide as follows:

"That the Secretary of Agriculture is hereby authorized and directed, in his discretion, to acquire for national forest purposes, by purchase or gift, lands more valuable for the regulation of stream flow than for other purposes, and situated on the watersheds of navigable streams in the Southern Appalachian Mountains within the States of Maryland, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Alabama, Kentucky, and Tennessee, and in the White Mountains within the States of New Hampshire and Maine. \* \* \*

"That the Secretary of Agriculture may do all things necessary to secure the safe title in the United States to the lands to be acquired under this act; but no payment shall be made for any such lands until the title shall be satisfactory to the Attorney-General and shall be vested in the United States.

"That the sum of \$5,000,000 is hereby appropriated to carry out the provisions of this act, out of any moneys in the Treasury not otherwise appropriated, and said sum shall be available immediately and until expended for said purpose: *Provided*, That the Secretary of Agriculture shall each year make a detailed report to Congress of the lands purchased under this act, and the cost thereof; Therefore be it

*Resolved*, That so much of the President's message, above referred to, which relates to the acquisition of lands in the Southern Appalachian and White Mountains 'for the use of the nation' be referred to the Committee on the Judiciary of the House of Representatives, together with the questions involved in the bills referred to, directing the Secretary of Agriculture to acquire for national forest purposes lands in the Southern Appalachian and White Mountains, within the States named, with instructions to said committee to report fully at an early date their views as to the power of the Federal Government by legislation to acquire, by purchase, condemnation, or otherwise, the lands referred to in said bills, situated in the States mentioned, and to appropriate money therefor, and also what power and authority the Federal Government has by legislation to acquire for the purpose of forest reserves lands within a State wherein the Government of the United States has no public domain, and to make appropriation therefor."

It is to be noted that said resolution refers to the committee a certain portion of the President's message, together with certain questions involved in two House bills, to wit, H. R. 10456 and 10457; that is, the questions involved in "directing the Secretary of Agriculture to acquire for national forest purposes lands in the Southern Appalachian and White Mountains within the States named." The resolution then instructs the committee to report fully at an early date their views, first, "as to the power of the Federal Government by legislation to acquire by purchase, condemnation, or otherwise, the lands referred to in said bills, situated in the States mentioned, and to appropriate money therefor;" and second, "what power and authority the Federal Government has by legislation to acquire for the purpose of forest reserves lands within a State wherein the Government of the United States has no public domain, and to make appropriation therefor."

The power of the General Government to acquire land in a State by purchase, condemnation, or otherwise being unquestioned, where the same is necessary to some governmental use, authorized by the Constitution, it becomes necessary in the very outset of the investigation directed to be made to inquire as to the uses for which it is proposed to acquire the land and the forest reserves referred to in said resolution. In *McCulloch v. Maryland* (4 Wheaton, 421) it is said:

"Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adequate to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution, are constitutional."

Our inquiry must be, first, as to whether the owning of lands and forest reserves in a State by the General Government is itself the end sought to be attained by acquiring them or whether such acquiring is designed as a means to some other end. This inquiry must be determined before we can pass on the question of whether the end is legitimate and within the scope of the Constitution. The importance of this inquiry is further apparent in the light of the statement of the Supreme Court in 117 U. S., 158, in the case of *Van Brocklin v. Tennessee*, to wit:

"The United States do not and can not hold property as a monarch may for private or personal purposes. All the property and revenues of the United States must be held and applied as all taxes, duties, imposts, and excises must be laid and collected 'to pay the debts and provide for the common defense and general welfare of the United States.'"

Unless, therefore, it shall appear that said lands and forest reserves are proposed to be held and used in some way for the general welfare, under some power delegated to Congress by the Constitution, it requires no argument to demonstrate that Congress has no power to acquire or to hold them.

#### THE PROPOSED USE OF FOREST RESERVES.

Directing our inquiry, therefore, in the first place, to the proposed uses of the said land and forest reserves, it is essential to carefully scrutinize all the language of the said House bills 10456 and 10457, and as well the history of said bills in so far as the same is shown in the proceedings of the previous Congress and in the results of the act of the previous Congress. Proceeding with the investigation in this way, we find that the agricultural bill approved March 4, 1907, required the Secretary of Agriculture to investigate the watersheds of the Southern Appalachian and White Mountains "and to report to Congress the area and natural conditions of said watersheds, the price at which the same can be purchased by the Government, and the advisability of the Government purchasing and setting apart the same as national forest reserves for the purpose of conserving and regulating the water supply and flow of said stream in the interest of agriculture, water power, and navigation."

The important thing here to be observed is that the Fifty-ninth Congress in ordering said survey distinctly directed that information be furnished as to the advisability of acquiring the proposed forest reserves, not as an end in itself, but as a means to other specified ends, to wit, "for the purpose of conserving and regulating the water supply and flow of said streams in the interest of agriculture, water power, and navigation."

It is a just assumption that the Fifty-ninth Congress felt authorized in appropriating money for this survey, and it is to be noted that one of the ends sought to be achieved by the survey, whatever may be said of the others, was clearly within the constitutional power of Congress, and that end is the conserving and regulating the water supply of certain streams in the interest of navigation. I have examined the report of the Secretary of Agriculture made in pursuance of said direction of the Fifty-ninth Congress. The same is embraced in Senate Document No. 91, Sixtieth Congress, first session. In this report the Secretary states, among other things, that "all the waters gathered by the Southern Appalachian and White Mountains flow to the sea through navigable rivers," and he submits an argument supported by facts presented by him that the preservation of the forests in these mountains would equalize the flow of these rivers, tending to the avoidance of floods and freshets and to a greater volume of water in time of drought. His argument is that forest reserves in these mountains would aid navigation in all streams having their source in these mountains. The committee does not undertake to pass judgment on this argument, but refers to it in order to determine whether or not there is any constitutional purpose sought to be accomplished by the proposed forest reserves. Gentlemen presumably competent to advise on such matters have appeared before the committee and urged that the preservation of the forests on the Southern Appalachian and White Mountains would materially aid the navigability of certain navigable rivers, but, as just stated, the committee does not feel that it has jurisdiction or is called upon to report a conclusion on the facts involved in this argument.

We next take notice of H. R. 10456 and H. R. 10457, the language in each being the same. The description of the lands to be acquired under these bills is, first, "lands more valuable for the stream flow than for other purposes," and, second, lands "situated on the watersheds of navigable streams." This language clearly indicates a relation of some kind between these lands and the streams having their origin in them and a purpose to utilize that relation in the interest of such streams. Provision is made in the bill for allowing private parties to control any minerals that may be on the lands acquired, and as well that merchantable timber may be removed by such parties under regulations to be prescribed by the Government. Provision is also made for private parties to obtain lands "chiefly valuable for agriculture" that the Government may chance to acquire in its purchases of forest lands. All these provisions point directly to the conclusion that one of the purposes of these bills, if not the primary purpose, is to control the watersheds of the streams rising in these mountains in the direct interest of these streams. The exclusion of minerals, merchantable timber, and agricultural lands from the reserves leaves no other conclusion to be fairly reached. That this conclusion is correct, is shown, I think, in the language of section 10 of the bills, to wit: "That the Secretary of Agriculture may, for further protection of the watersheds of said navigable streams," do certain other things. In other words, all that precedes in the bills is for the purpose of protecting the watersheds of navigable rivers, and what follows in section 10 is for the further protection of such watersheds.

#### THE REAL INQUIRY.

Assuming that this conclusion as to the purpose of these bills is correct, the real inquiry that is presented to the committee relates to the power of Congress under the Constitution to acquire lands and establish forest reserves in a State where no public domain now exists for the purpose of improving or adding to the navigability of certain nav-



igable rivers. The committee is not called upon to determine whether, as a matter of fact, the growth of forests or the preservation of forests on mountains would aid the navigability of navigable rivers having their source in such mountains. That question, presumably, the House has reserved for its own decision. The committee is called upon to report simply on the question of power, assuming the existence of the facts necessary to the exercise of the power. The power of Congress over navigation and to appropriate money for the improvement of rivers and harbors has been so universally acquiesced in for so long a period of time as to be now unquestioned. This power is derived from the commerce clause of the Constitution. As far back as 3 Wallace, 724, in the case of *Gilman v. Philadelphia*, the Supreme Court said:

"Commerce includes navigation. The power to regulate commerce comprehends the control for that purpose and to the extent necessary of all the navigable waters of the United States which are accessible from a State other than that in which they lie. For this purpose they are the public property of the nation and subject to all the requisite legislation by Congress. This necessarily includes the power to keep them open and free from any obstruction to their navigation, interposed by the State or otherwise; to remove such obstructions when they exist, and to provide by such sanctions as they may deem proper against the occurrence of the evil and for the punishment of offenders. For these purposes Congress possesses all the power which existed in the States before the adoption of the National Constitution and which have always existed in the Parliament of England. It is for Congress to determine when its full power shall be brought into activity and as to the regulation and sanction which shall be provided."

The Secretary of Agriculture has informed us that all the navigable rivers having their source in the mountains referred to, and that it is claimed would be benefited by the proposed forest reserves, "flow to the sea." They are all therefore "accessible from a State other than those in which they lie" and are "subject to all the requisite legislation by Congress" for their control in the regulation of commerce. Congress having the power "to keep them open and free from any obstructions" and "to remove such obstructions," and having the power "to provide by such sanctions as they may deem proper against the occurrence of the evil," and also "to determine when its full power shall be brought into activity," and also to determine "as to the regulation and sanctions which shall be provided," it would seem to be incontrovertible under this authority that Congress has the power to acquire and own the proposed forest reserves if in its judgment such forest reserves would aid navigation. The question, it seems to me, is one of discretion, not one of power.

The Savannah River is one of the rivers that it is claimed would be directly benefited by the proposed forest reserves. In the case of *South Carolina v. Georgia et al.* (94 U. S., 4), the second headnote reads: "Congress has the same power over the Savannah River that it has over the other navigable waters of the United States."

In the opinion the court says, page 9:

"That the power to regulate interstate commerce and commerce with foreign nations, conferred upon Congress by the Constitution, extends to the control of navigable rivers between States—rivers that are accessible from other States at least to the extent of improving their navigability—has not been questioned during the argument nor could it be with any show of reason. From an early period in the history of the Government it has been so understood and determined."

The court quotes the extract from *Gilman v. Philadelphia* (3 Wallace, 724) just above and says:

"Such has uniformly been the construction given to that clause of the Constitution which confers upon Congress the power to regulate commerce."

In a Wisconsin case, reported in 96 U. S., 387, the same involving certain river and harbor improvements and the laws of Congress in reference to them, the court, in speaking of these laws, says:

"They amount to the declaration of the Federal Government that we here interpose and assert our power. We take upon ourselves the burden of this improvement which properly belongs to us and that hereafter this work for the public good is in our hands and subject to our control. Nor can there be any doubt that such action is within the constitutional power of Congress. It is a power which has been exercised ever since the Government was organized under the Constitution."

In the celebrated case of *Gibbons v. Ogden* (9 Wheaton) the court said, page 190:

"The power over commerce, including navigation, was one of the primary objects for which the people of America adopted their Government, and must have been contemplated in forming it."

Again, on page 195, the court says:

"The deep streams which penetrate our country in every direction pass through the interior of almost every State in the Union, and furnish the means of exercising this right. If Congress has the power to regulate it, that power must be exercised wherever the subject exists."

#### CONGRESS HAS POWER BEYOND NAVIGABLE PORTIONS OF STREAMS.

The power of Congress over navigation extends beyond that portion of a navigable stream that is actually navigable, and it covers every navigable river in the United States. Congress long ago exercised its power over a navigable river beyond the point of its navigability, and the Supreme Court has upheld its act in so doing.

In the act of September 19, 1890 (26 Stat., 454, par. 10), it is provided:

"That the creation of any obstruction, not affirmatively authorized by law, to the navigable capacity of any waters, in respect of which the United States has jurisdiction, is hereby prohibited, etc."

Again, in the river and harbor act of March 3, 1899, in section 10, it is provided—

"That the creation of any obstruction not affirmatively authorized by Congress to the navigable capacity of any of the waters of the United States is hereby prohibited."

Note must be given to the broader language used in the later act and to the substitution of "authorized by Congress" for "authorized by law." Both these laws are construed in a case reported in 174 U. S., 690. Here a dam was proposed to be erected in the waters of a navigable river, but at a point far above where the river was actually navigable. The United States Government sought to enjoin the building of the dam, on the ground that it would interfere with the navigable portion of the river by decreasing the supply of water. The lower court's decision was adverse to the Government. A reversal was had in the Supreme Court and the case remanded with directions in which there is ordered an "inquiry into the question whether the intended act of the defendants in the construction of a dam and in appropriating the waters of the Rio Grande will substantially diminish the navigability of that stream within the limits of present navigability, and, if so, to enter a decree restraining these acts to the extent that they will so diminish."

ability of that stream within the limits of present navigability, and, if so, to enter a decree restraining these acts to the extent that they will so diminish."

In the opinion, page 703, the court, in speaking of the power of a State to permit the appropriation of flowing waters for such purposes as it deems wise, said there were two limitations to this power. The first, that a State can not in the absence of authority from Congress so legislate as to destroy the right of the United States, as the owner of lands bordering on a stream, to the continued flow of the waters; the second—"that it is limited by the superior power of the General Government to secure the uninterrupted navigability of all navigable streams within the limits of the United States. In other words, the jurisdiction of the General Government over interstate commerce and its natural highways vests in that Government the right to take all needed measures to preserve the navigability of the navigable water courses of the country, even against any State action."

The court further discussed the act of September 19, 1890, as amended and reenacted July 13, 1892, 27 Stat., 110 (quoted above), and said, page 708:

"It was an exercise by Congress of the power oftentimes declared by the court to belong to it of national control over navigable streams."

"It is urged that the true construction of this act limits its applicability to obstructions in the navigable portion of a navigable stream, and that as it appears that although the Rio Grande may be navigable for a certain distance above its mouth, it is not navigable in the Territory of New Mexico, the statute has no applicability. The language is general and must be given full scope. It is not a prohibition of any obstruction to the navigation, but any obstruction to the navigable capacity, and anything, wherever done, or however done, within the limits of the jurisdiction of the United States which tends to destroy the navigable capacity of one of the navigable waters of the United States is within the terms of the prohibition. Evidently Congress, perceiving that the time had come when the growing interests of commerce required that the navigable waters of the United States should be subjected to the direct control of the National Government, and that nothing should be done by any State tending to destroy that navigability without the explicit assent of the National Government, enacted the statute in question, and it would be to improperly ignore the scope of this language to limit it to the acts done within the very limits of navigation of a navigable stream."

If Congress has the power, as this opinion declares, to legislate against obstructions that interfere with the "navigable capacity" of navigable streams "wherever done or however done within the limits of the United States," and regardless of whether done in the navigable portions of such streams, why has not Congress an equal power to legislate in the same way to increase the "navigable capacity" of such streams? If it be a fact that denuding the mountains of their forest results in filling up the navigable streams in their navigable portions with silt, dirt, or debris, causing obstructions therein, why has not Congress the same power to prevent the formation of such obstructions that it has to remove such obstruction after they have been formed? If Congress has the power to remove a dam, placed far above the navigable portion of a navigable stream, because it is an obstruction to the navigable portion of the stream, in that it decreases the flow of water, why has not Congress equal power to remove any other obstructions in the stream at any point between the ending of navigation and the source of the stream, if such obstruction decreases the flow of water in the navigable portion of such stream? If it be a fact that destroying the forests on the mountain side results in a greatly reduced flow of water during periods of drought in all streams having their origin in such mountains, why has not Congress the same power where such streams are navigable to prevent the destruction of such forests that it has to prevent a dam at some other point on the non-navigable portion of the stream? Why is not one thing just as important to be done as the other in the interest of navigation? Is not prevention more important than cure, and particularly so when in all the experience of our Government cure by dredging has never been anything but a temporary cure? In the light of the authority just quoted, there appears to be involved in the resolutions referred to the committee only questions of fact and matters of policy. The existence of the power inquired about appears to be amply assured.

The case of *Kansas v. Colorado*, reported in 206 U. S., 46, is not an authority against the existence in Congress of such power, but, on the contrary, in so far as it touches this particular question of power, the opinion clearly indicates its existence. In this case the Supreme Court denied the power of the United States to control the waters of a river in a State for the purpose of reclamation of arid lands, the court holding that the reclamation of arid lands within a State is not within the constitutional power of Congress. But the court said, page 86:

"It follows from this that if in the present case the National Government was asserting as against either Kansas or Colorado that the appropriation for the purposes of irrigation of the waters of the Arkansas was affecting the navigability of the stream, it would become our duty to determine the truth of the charge. But the Government makes no such contention. On the contrary, it distinctly asserts that the Arkansas River is not now and never was practically navigable beyond Fort Gibson, in the Indian Territory, and nowhere claims that any appropriation of the waters by Kansas or Colorado affects its navigability."

In the syllabus the existence of the specific power being discussed is clearly recognized, to wit:

"While Congress has general legislative jurisdiction over the Territories and may control the flow of waters in their streams, it has no power to control a like flow within the limits of a State, except to preserve or improve the navigability of the stream."

Here is express recognition of the power of Congress, within a State, to control the flow of a stream for the purpose of preserving or improving its navigability.

If it be a fact that a forest on the mountain side will control the flow of a stream having its origin in the mountain, and that such control will preserve or will improve the navigability of the stream, why is not the language quoted direct authority for Congress to preserve the forests on such mountain side?

The syllabus just quoted from *Kansas v. Colorado*, amply supported as it is by the full text of the opinion, furnishes authority for the contention that Congress has no constitutional power to control the flow of a stream within a State for the purpose of aiding agriculture or improving water power, which are two other alleged purposes of forest reserves, as shown in the order for survey contained in the act of March 4, 1907, but at the same time it furnishes equally strong author-

ity for the proposition that Congress may control such stream flow for the purpose of preserving or improving the navigability of such streams.

It can not be seriously argued that because Congress in aiding navigation will at the same time produce other beneficial results, that Congress has no power to aid navigation. The control and regulation of the flow of water in a stream would undoubtedly improve the value of the water power on such stream, but it would to a greater extent improve the navigability of the stream. If such stream was navigable, there could be no use made of its water power by a State or individuals that would interfere with its "navigable capacity," and its water power, controlled as it would be by the State, whatever might be its value, would be subservient to the preservation of its navigability. If by controlling stream flow freshets and floods could be avoided or substantially reduced in volume or in frequency, agriculture would undoubtedly be benefited, because agricultural lands would be saved the deposits destroying their fertility and left on them by overflows; but would not this be a mere incident? Must Congress be denied its undoubted power to improve and preserve the navigability of navigable streams because in so doing there will be other beneficial results? Congress has never made an appropriation for any public improvement in any community, whether for harbor improvements or buildings, that has not resulted in benefiting the community in many ways, and yet the appropriation has always been justified because intended for a distinct constitutional purpose.

The incidental benefits in other directions that have followed have never stood in the way of an appropriation for a legitimate end.

#### PREVIOUS ACTS OF CONGRESS.

The direct question as to the power of Congress to aid navigation by acquiring land within a State to be used as forest reserves has never arisen, so far as I am advised, but both Congress and the Supreme Court have repeatedly recognized the power of Congress to acquire, by purchase or condemnation, lands within a State for the purpose generally of aiding navigation.

I am not prepared to advise that this power is limited to any specific area of land short of what is actually necessary for the particular constitutional purpose of aiding navigation.

The act of April 28, 1888 (25 Stat., 94), reads:

"The Secretary of War may cause proceedings to be instituted in the name of the United States in any court having jurisdiction of such proceedings for the acquirement by condemnation of any land, right of way, or material needed to enable him to maintain, operate, or prosecute work for the improvement of rivers and harbors for which provision has been made by law, such proceedings to be prosecuted in accordance with the laws relating to suits for the condemnation of property of the States wherein the proceedings may be instituted: *Provided, however, That when the owner of such land, right of way, or material shall fix a price for the same, which in the opinion of the Secretary of War shall be reasonable, he may purchase the same at such price without further delay: And provided further, That the Secretary of War is hereby authorized to accept donations of lands or material required for the maintenance or prosecution of such works.*"

In 188 U. S., 445, is reported a case for damages against the United States, caused by overflowing lands as the result of putting in dams and training walls in the Savannah River. The damages were allowed.

In the syllabus, the court says:

"Notwithstanding that the work causing the injury was done in improving the navigability of a navigable river, and by the Constitution Congress is given full control over such improvements, the injuries can not be regarded as purely consequential, and the Government can not appropriate property without being liable to the obligation created by the fifth amendment of paying just compensation."

Mr. Justice Brewer said, page 464:

"It is earnestly contended in argument that the Government had a right to appropriate this property. *This may be conceded*, but there is a vast difference between a proprietary and a governmental right."

"Very different from this proprietary right of the Government in respect to property which it owns is its governmental right to appropriate the property of individuals."

"*All private property is held subject to the necessities of government.* The right of eminent domain underlies all such rights of property. The Government may take personal or real property, whenever its necessities or the exigencies of the occasion demand."

Congress has extended its power to nonnavigable waters adjacent to navigable waters, and for the express purpose of preventing the navigable waters from being filled up with earth and other material, the identical purpose that it is claimed forest reserves would serve. In 33 Statutes, Law 1147, Congress has empowered the Secretary of War "to prescribe regulations to govern the transportation and dumping into any navigable waters or waters adjacent thereto, of dredgings, earth, garbage, and other refuse materials of every kind or description, whenever in his judgment such regulations are required in the interest of navigation."

Congress has extended its jurisdiction to prevent floods in a navigable river, another purpose that it is claimed forest reserves would serve. In 21 Statutes, Law 38, Congress conferred the power upon and made it the duty of the Mississippi River Commission to mature, among others, plans "to prevent destructive floods."

#### THE POWER GENERALLY TO ACQUIRE LAND.

I stated in the outset that the power of Congress to acquire land in a State by purchase or condemnation was unquestioned, provided a necessity to acquire it for some legitimate governmental use existed.

The authorities for this proposition are ample.

Article 1, section 8, of the Constitution reads:

"Congress shall have power to exercise exclusive legislation in all cases whatsoever over such district (not exceeding 10 miles square) as may by cession of particular States and the acceptance of Congress become the seat of the Government of the United States, and to exercise like authority over all places purchased by consent of the legislature of the State in which the same shall be for the erection of forts, magazines, arsenals, dock yards, and other needful buildings."

This section, however, is not in any respect a limitation on the power of Congress to acquire lands in a State, but is a limitation on the power of Congress to "exercise exclusive legislation."

In *Kohl v. U. S.*, reported in 91 U. S., 367, 371, the court says:

"The powers vested by the Constitution in the General Government demand for their exercise the acquisition of lands in all the States. These are needed for forts, armories, and arsenals, for navy-yards and light-houses, for custom-houses, post-offices, and court-houses, and for other public uses."

Also—

"No one doubts the existence in the State governments of the right of eminent domain—a right distinct from and paramount to the right of ultimate ownership. But it is no more necessary for the exercise of the powers of a State government than it is for the exercise of the conceded powers of the Federal Government. That Government is as sovereign within its sphere as the States are within theirs. True, its sphere is limited. Certain subjects only are committed to it; but its power over those subjects is as full and complete as is the power of the States over the subjects to which their sovereignty extends. The power is not changed by its transfer to another holder. But if the right of eminent domain exists in the Federal Government, it is a right which may be exercised within the States, so far as is necessary to the enjoyment of the powers conferred upon it by the Constitution."

In 109 U. S., 518, the court says:

"The power to take private property for public uses, generally termed the right of eminent domain, belongs to every independent government. It is an incident of sovereignty and, as said in *Boom v. Patterson* (98 U. S., 106), requires no constitutional recognition."

In *Fort Leavenworth Railroad Company v. Lowe* (114 U. S., 527) the syllabus states:

"In the act admitting Kansas as a State, there was no reservation of Federal jurisdiction over the Fort Leavenworth Military Reservation. The State of Kansas subsequently ceded to the United States exclusive jurisdiction over the same, 'saving further to said State the right to tax railroad, bridge, or other corporations, their franchises and property, on said reservation.' Held, that the property and franchises of a railroad company within the reservation was liable to pay taxes in the State of Kansas, imposed according to its laws."

On page 530 the court, after quoting Article I, section 8 of the Constitution, says:

"This power of exclusive legislation is to be exercised, as thus seen, over places purchased by consent of the legislatures of the States in which they are situated, for the specific purposes enumerated."

Purchase with such consent was the only mode then thought of for the acquisition by the General Government of title to lands in the States. Since the adoption of the Constitution this view has not generally prevailed. Such consent has not always been obtained nor supposed necessary for the purchase by the General Government of lands within the States. \* \* \*

The consent of the States to the purchase of lands within them for the special purposes named is, however, essential under the Constitution to the transfer to the General Government, with the title of political jurisdiction and dominion. When lands are acquired without such consent, the possession of the United States, unless political jurisdiction be ceded to them in some other way, is simply that of an ordinary proprietor. The property in that case, unless used as a means to carry out the purposes of the Government, is subject to the legislative authority and control of the States equally with the property of private individuals. But not only by direct purchase have the United States been able to acquire lands they needed without the consent of the States, but it has been held that they possess the right of eminent domain within the States, using those terms, not as expressing ultimate dominion or title to property, but as indicating the right to take private property for public uses, when needed to execute the powers conferred by the Constitution; and that the General Government is not dependent upon the caprice of individuals or the will of State legislatures in the acquisition of such lands as may be required for the full and effective exercise of its powers. This doctrine was authoritatively declared in *Kohl v. United States*. (91 U. S., 367.)

The court, after quoting from various opinions of other courts and of Attorneys-General of the United States, concludes, page 539:

"Where, therefore, lands are acquired in any other way by the United States within the limits of a State than by purchase with her consent, they will hold the lands subject to this qualification; that if upon them forts, arsenals, or other public buildings are erected for the uses of the General Government, such buildings with their appurtenances, as instrumentalities for the execution of its powers, will be free from any such interference and jurisdiction of the State as would destroy or impair their effective use for the purposes designed. Such is the law with reference to all instrumentalities created by the General Government. Their exemption from State control is essential to the independence of and sovereign authority of the United States within the sphere of their delegated powers. But when not used as instrumentalities, the legislative power of the State over the places acquired will be as full and complete as over any other places within her limits."

In reference to the particular case before it, the court said, page 539:

"It not being a case where exclusive legislative authority is vested by the Constitution in the United States, that cession could be accompanied with such conditions as the State might see fit to annex, not inconsistent with the free and effective use of the fort as a military post."

In answer to the objection that a State has no power to cede away her jurisdiction and legislative power over any portion of her territory, except as such cession follows under the Constitution from her consent to a purchase by the United States for some one of the purposes mentioned in the Constitution, the court says, page 540:

"It is undoubtedly true that the State, whether represented by her legislature or through a convention specially called for that purpose, is incompetent to cede her political jurisdiction and legislative authority over any part of her territory to a foreign country without the concurrence of the General Government."

But the court says, page 541:

"In their relation to the General Government the States of the Union stand in a very different position from that which they hold to foreign governments. Though the jurisdiction and authority of the General Government are essentially different from those of the State, they are not those of a different country; and the two, the State and the General Government, may deal with each other in any way they may deem best to carry out the purposes of the Constitution."

The question presented in *Van Brocklin v. State of Tennessee* (117 U. S., 151) was whether lands in the State of Tennessee sold for taxes by the United States and bought in by the United States could be taxed by the State while they were owned by the United States. In a most elaborate opinion the court held they could not be so taxed. The syllabus is:

"Property of the United States is exempt by the Constitution of the United States from taxation under the authority of a State."

In the opinion this summing up of the power of the United States to acquire and own lands within a State is made, page 154:

"So the United States, at the discretion of Congress, may acquire and hold real property in any State, whenever such property is needed for



the use of the Government, in the execution of any of its powers, whether for arsenals, fortifications, light-houses, custom-houses, court-houses, barracks, or hospitals, or for any other of the many public purposes for which such property is used; and when the property can be taken against their will by the United States, in the exercise of the power of eminent domain, upon making just compensation, with or without a concurrent act of the State in which the land is situated (10 Pet., 25; 91 U. S., 367; 94 U. S., 315, 320; 109 U. S., 513; 112 U. S., 645; 114 U. S., 525)."

In *Cherokee Nation v. Kansas Railway Company* (135 U. S., 641) the court denied the right of the Cherokee Nation, as the owner of land in the Indian Territory, to prevent a railroad company, under power vested in it by Congress, from condemning such land for right of way. The court said, page 656:

"The fact that the Cherokee Nation holds these lands in fee simple under patents from the United States is of no consequence in the present discussion, for the United States may exercise the right of eminent domain, even within the limits of the several States, for purposes necessary to the execution of the powers granted to the General Government by the Constitution."

The court quotes with approval the opinion of Mr. Justice Bradley, in 35 Federal Reporter, 9, 19, page 656, as follows:

"The argument based upon the doctrine that the States have the eminent domain or highest dominion in the lands comprised within their limits, and that the United States have no dominion in such lands, can not avail to frustrate the supremacy given by the Constitution to the Government of the United States in all matters within the scope of its sovereignty. \* \* \* Whatever may be the necessities or conclusions of theoretical law as to eminent domain or anything else, it must be received as a postulate of the Constitution that the Government of the United States is invested with full and complete power to execute and carry out its purposes."

The court further, page 657, said:

"The lands in the Cherokee territory, like the lands held by private owners everywhere within the geographical limits of the United States, are held subject to the authority of the General Government to take them for such objects as are germane to the execution of the powers granted to it, provided only that they are not taken without just compensation being made to the owner."

In *United States v. Gettysburg Electric Railway* (160 U. S., 668) it is held not only that the United States has power to hold lands in a State for the purpose of "preserving the lines of battle at Gettysburg, Pa., and for properly marking with tablets the positions occupied by the various commands of the armies of the Potomac and of northern Virginia on that field, and for opening and improving avenues along the positions occupied by troops upon those lines, and for fencing the same, and for determining the leading tactical positions of batteries, regiments, brigades, divisions, corps, and other organizations, with reference to the study and correct understanding of the battle and to mark the same with suitable tablets, each bearing a brief historical legend compiled without praise and without censure," but that the United States has power to condemn lands within a State for such purpose. The court below held that "the intended use of the land is not that kind of a public use for which the United States has the constitutional power to condemn land," and this holding was reversed by the unanimous opinion of the Supreme Court.

Mr. Justice Peckham, for the court, page 679, said the important question to be determined was whether the use proposed was of that kind of public use for which the Government of the United States is authorized to condemn land. He said:

"It has authority to do so whenever it is necessary or appropriate to use the land in the execution of any of the powers granted to it by the Constitution."

He said, page 680:

"Upon the question whether the proposed use of this land is a public one, we think there can be no well-founded doubt. And also, in our judgment, the Government has the constitutional power to condemn the land for the proposed use. It is, of course, not necessary that the power of condemnation for such purpose be expressly given by the Constitution. The right to condemn at all is not so given. It results from the powers that are given, and it is implied, because of its necessity or because it is appropriate in exercising these powers. Congress has the power to declare war and to create and equip armies and navies. It has the great power of taxation to be exercised for the common defense and general welfare. Having such powers, it has such other and implied ones as are necessary and appropriate for the purpose of carrying the powers expressly given into effect. Any act of Congress which plainly and directly tends to enhance the respect and love of the citizen for the institutions of his country, and to quicken and strengthen his motives to defend them, and which is germane to and intimately connected with and appropriate to the exercise of some one or all of the powers granted by Congress, must be valid. This proposed use comes within such description."

He further said:

"The end to be attained by this proposed use, as provided for by the act of Congress, is legitimate and lies within the scope of the Constitution."

He further said, page 683:

"Its national character and importance, we think, are plain. The power to condemn for this purpose need not be plainly and unmistakably deduced from any one of the particularly specified powers. Any number of these powers may be grouped together, and an inference from them all may be drawn that the power claimed has been conferred."

These authorities fully sustain the proposition that Congress has the power to acquire lands in any State for any legitimate governmental use, and that Article I, section 8, of the Constitution does not limit this power. The limitation of this power that is fixed by the Constitution is that such lands can be acquired only in execution of some power that is delegated to Congress.

#### POLITICAL POWER AND LEGISLATIVE CONTROL.

If the United States should acquire a forest reserve in a State, a most interesting and important question would arise as to where the political power and legislative control over such forest reserve would vest, and this is a question separate and apart from the question of power in the United States to acquire such reserve. H. R. 10456 and 10457 provide that such reserves shall not be acquired in a State without the consent of such State. The language of section 2 is:

"That no deed or other instrument of conveyance shall be accepted or approved by the Secretary of Agriculture under this act until the legislature of the State in which the land lies shall have consented to the acquisition of such land by the United States for national forest purposes."

Section 4 prohibits any payment for the lands "until the title shall be satisfactory to the Attorney-General and shall be vested in the United States." If the State consents to the passing of the title for national forest purposes and the title is actually approved and passed, nothing further will be required by the United States. Section 8 gives to the United States jurisdiction to punish offenses only, leaving all other jurisdiction in the State. Section 7, however, provides that "The lands acquired under this act shall be permanently reserved, held, and administered as national forest lands under the provision of section 24 of the act approved March 3, 1891, volume 26, Statutes 1103, and acts supplemental to and amendatory thereof."

This section confers more jurisdiction on the United States than the simple one of punishing offenses.

In my opinion, should the United States acquire forest reserves in a State for the purpose of navigation, which it has the constitutional power to do, and no more appeared than the mere fact of acquiring title by the United States, whether by purchase or condemnation, the United States would hold such land as any other proprietor in the State, subject to the complete jurisdiction of the State, save in two particulars. The State could not tax the lands, nor could it interfere with the governmental uses for which the United States acquired them. This, I think, is made perfectly clear by the *Fort Leavenworth* case (114 U. S., 527) and the *Van Brocklin* case (117 U. S., 151), as well as in some of the other cases already cited. In order for the United States to exercise any other jurisdiction over such lands, the State would have to expressly cede such other jurisdiction. These bills require no cession of jurisdiction by the States. They simply require the consent of the State that the title shall pass for national forest purposes. The consent to the passing of title would not add anything to the two rights or privileges already referred to, for these the United States would enjoy, even though the State had not consented to the passing of the title.

In the absence of a cession of jurisdiction for that purpose by the State, the United States would have no jurisdiction to set apart such lands as "permanent national forest lands" and control them as such for a purpose wholly unrelated to navigation, nor could the State cede jurisdiction for such purpose, for the power of the State and the power of the United States is each limited to ceding jurisdiction and accepting jurisdiction over land within a State for a constitutional use, and such use, as we have already seen, is not a constitutional use. Again, forest reserves as an aid to navigation not being "needful buildings," nor in any sense related to the properties or purposes described in Article I, section 8, of the Constitution, it is much to be doubted if the United States, even with the express grant of the State, could exercise "exclusive" legislative power over them. There is some force in the suggestion that Article I, section 8, of the Constitution limits the power of the United States to exercise "exclusive" legislative power in a State to the particular properties and purposes enumerated. Be that as it may, however, it is quite evident that a simple consent of the State that the United States might purchase lands within its domain would confer no legislative power, exclusive or otherwise, on the United States that would not attach without such consent.

Where land is acquired in a State by the United States for one of the purposes enumerated in Article I, section 8, of the Constitution, and the State consents thereto, the Constitution immediately confers exclusive legislative power over such land upon the United States. In the case of *Fort Leavenworth* (114 U. S., 527) the court quotes with approval, on page 533, from Mr. Justice Story, in *United States v. Cornell* (2 Mason, 60), as follows:

"For it may well be doubted whether Congress is by the terms of the Constitution at liberty to purchase lands, property, dockyards, etc., with the consent of the State legislature, where such consent is so qualified that it will not justify exclusive legislation of Congress there. It may well be doubted if such consent be not utterly void."

This rule has no application to lands acquired in a State for some constitutional purpose other than those enumerated in Article I, section 8, and in all such other cases where a State cedes jurisdiction it may limit or qualify such cession as it sees proper to do.

In Cooley's Constitutional Law, third edition, page 103, the entire matter is summed up as follows:

"The Constitution, as we have seen, provides for the exclusive jurisdiction in the United States not only over the seat of government but over other places purchased with the consent of the legislature of the State for the erection of needful buildings. This power of exclusive legislation carries with it exclusive jurisdiction; the full sovereign authority over such places passes under such circumstances into the hands of the National Government. The State, therefore, can not take cognizance of acts committed there, and the inhabitants of those places cease to be inhabitants of the State and can no longer exercise any civil or political rights under the laws of the State. But land within the limits of a State can be acquired for governmental purposes in other ways than by purchase with the consent of the legislature; and if acquired in any other way exclusive jurisdiction and legislative power do not pass to the United States. The property may be purchased without the consent of the legislature, may be taken under the power of eminent domain, or may be part of territory originally belonging to the United States and not exempted from the jurisdiction of the State at the time of the admission of the State wherein the property lies. In these cases the interest of the United States is that of an ordinary proprietor, but doubtless, under any circumstances, the Federal property, however acquired, would be free from any such interference and jurisdiction of the State as would destroy its effective use for Federal purposes. The State may also cede jurisdiction to the Federal Government over any such place, and in doing so may make such restrictions or conditions as it may see fit, provided they are not inconsistent with the effective use of the property for the purposes for which it was acquired."

Upon the question now being discussed the decision of Judge Seaman (71 Fed. Rep., 545) is to the point. The syllabus is:

"The purchase of lands in a State by the General Government with legislative consent does not ipso facto confer upon the General Government exclusive jurisdiction unless the purchase is for a fort or for some other purpose distinctly named in Article I, section 8, of the Constitution; and in order that exclusive jurisdiction may be acquired over land taken for any other purpose, the act providing therefor and calling for the consent must unequivocally declare that exclusive jurisdiction is intended and necessary, or such necessity must be manifest from the purpose of the act."

Judge Seaman, in his opinion, page 552, says:

"It was declared by Chief Justice Spencer, in the great and leading case of *People v. Godfrey* (17 Johns, 225), as a fundamental principle, 'that the rights of sovereignty are never to be taken away by implication,' and the rule thus stated is an accepted canon in the construction of powers between the nations and State. Reading the Wisconsin

statute in the light of this rule, and in the view that the purpose was not one for which exclusive legislation was prescribed, either by the Constitution or by Congressional enactments, the omission of the word 'exclusive,' or some equivocal term, is material, and in my opinion the act must be interpreted as ceding—that is, yielding or surrendering—to the United States such jurisdiction as Congress may find necessary for the object of the cession and for the exercise of which there must be clear enactments to that end within its powers."

The Wisconsin act reads:

"That jurisdiction over the several tracts of land hereinafter mentioned be, and hereby is, ceded to the United States of America."

In 114 U. S., 545, *Chicago and Pacific Railway Co. v. McGlinn*, the court referred to the point made in the argument of *Fort Leavenworth v. Lowe* et al., same volume, that the act of cession by the State of Kansas conferred "exclusive" jurisdiction over the territory to the United States and that any limitations in the act were void. The court said, in speaking of *Fort Leavenworth v. Lowe* et al.:

"We there held that a building on a tract of land owned by the United States used as a fort or for other public purposes of the Federal Government is exempted as an instrumentality of the Government from any such control or interference by the State as will defeat or embarrass its effective use for these purposes. But in order that the United States may possess exclusive legislative power over the tract, except as may be necessary to the use of the building thereon as such instrumentality, they must have acquired the tract by purchase, with the consent of the State. This is the only mode prescribed by the Federal Constitution for their acquisition of exclusive legislative power over it. We also held that it is competent for the legislature of a State to cede exclusive jurisdiction over places needed by the General Government in the execution of its powers."

This case involved a suit against a railroad company on the reservation for killing a cow, brought in the State court of Kansas, under a Kansas statute. The railroad company contended that the Kansas statute was void, because the United States had exclusive legislative power over the reservation and that the limitation in the act of cession was void. The court said, page 546:

"We are clear that this contention can not be maintained. It is a general rule of public law, recognized and acted upon by the United States, that whenever political jurisdiction and legislative power over any territory are transferred from one nation or sovereign to another, the municipal laws of the country—that is, laws which are intended for the protection of private rights—continue in force until abrogated or changed by the new government or sovereign. By the cession public property passes from one government to the other, but private property remains as before, and with it those municipal laws which are designed to secure its peaceful use and enjoyment."

In 146 U. S., 325, *Benson v. United States*, the Kansas military reservation and the jurisdiction of the United States thereover was again before the Supreme Court, this time in a prosecution before the circuit court of the United States for murder committed on the reservation. The court, on page 331, said:

"It is contended by appellant's counsel that within the scope of those decisions (114 U. S., 525, and 114 U. S., 542) jurisdiction passed to the General Government only over such portions of the reserve as are actually used for military purposes, and that the particular part of the reserve on which the crime charged was committed was used solely for farming purposes. But in matters of that kind the courts follow the action of the political department of the Government. (2 Wall., 525, 537.) The character and purposes of its occupation having been officially and legally established by that branch of the Government which has control over such matters, is not open to the courts, on a question of jurisdiction, to inquire what may be the actual uses to which any portion of the reserve is temporarily put. There was therefore jurisdiction in the circuit court."

In 162 U. S., 399, *Palmer v. Barrett*, a case from New York, the question arose as to the exclusive jurisdiction of the United States over certain lands adjacent to the navy-yard and hospital in Brooklyn that had been ceded with certain limitations to the United States by the State of New York. The case involved a lease. The court said:

"In the absence of any proof to the contrary it is to be considered that the lease was valid and that both parties to it received the benefits stipulated in the contract. This being true, the case then presents the very contingency contemplated by the act of cession—that is, the exclusion from the jurisdiction of the United States of such portion of the ceded land not used for the governmental purposes of the United States therein specified. Assuming, without deciding, that if the cession of jurisdiction to the United States had been free from condition or limitation the land should be treated and considered as within the sole jurisdiction of the United States," etc.

This last clause suggests the doubt heretofore expressed of the existence of unlimited power in the United States to exercise "exclusive" legislative power in a State with the consent of the State. This doubt is strengthened by the following case:

In *Pollard's Lessee v. Hagan* et al. (3 Howard, 212, 223), the court says, in speaking of the act admitting Alabama into the Union:

"Nothing remained in the United States, according to the terms of the agreement, but the public lands. And if an express stipulation had been inserted in the agreement granting the municipal right of sovereignty and eminent domain to the United States such stipulation would have been void and inoperative, because the United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain within the limits of a State or elsewhere, except in the cases in which it is expressly granted."

The court here quotes Article I, section 8, of the Constitution, and says:

"Within the District of Columbia and the other places purchased and used for the purposes above mentioned the national and municipal powers of government of every description are united in the Government of the Union. And these are the only cases within the United States in which all the powers of government are united in a single government, except in the cases already mentioned in the temporary Territorial governments, and there a local government exists."

The opinion, further, page 224, recites:

"We therefore think the United States hold the public lands within the new States by force of the deeds of cession and the statutes connected with them, and not by any municipal sovereignty which it may be supposed they possess, or have reserved by compact with the new States for that particular purpose. The provision of the Constitution above referred to shows that no such power can be exercised by the United States within a State. Such a power is not only repugnant to the Constitution, but it is inconsistent with the spirit and intention of the deeds of cession."

It should be said of this opinion that the right of "eminent domain," referred to in it, has reference to ultimate ownership and dominion of property rather than to the right to take private property for public uses. It is in the latter sense that the right of "eminent domain" has been so frequently held by the Supreme Court to exist in the United States.

Whatever may be the power of the United States to exercise exclusive legislative power within a State it is not necessary now to determine, nor is it necessary to determine what jurisdiction should be ceded by a State in case the United States purchase forest reserves within its domain. It is quite evident that H. R. 10456 and 10457 do not contemplate that such reserves shall be acquired in any State without the consent of such State, and it is equally evident that these bills do not contemplate that the United States shall exercise exclusive legislative power over such reserves when purchased. These questions therefore are not submitted to the committee. Considering the questions that are presented, there ought to be no difficulty in adjusting the question of power over such reserves between the State and the United States. The Supreme Court said in the *Fort Leavenworth v. Lowe* case (114 U. S., 541) that "the State and the General Government may deal with each other in any way they may deem best to carry out the purposes of the Constitution."

One of the purposes of the Constitution being to preserve and maintain the use of our navigable rivers as aids to commerce, the State and the Federal Government may agree as they deem best to carry out this great purpose. Such agreement can be expressed in the act of Congress by setting forth therein in detail the particular cessions of jurisdiction by the State that would be required by the United States as a condition precedent to purchasing the reserves, and by also setting forth therein the purpose for which such jurisdiction is required. This purpose should plainly appear to be that of aiding navigation. All other purposes should be eliminated. Such an act of Congress, followed by cession from the State of the required jurisdiction for the purpose stated, would constitute the agreement between the United States and the State and would be clearly within the scope of the Constitution.

#### IN CONCLUSION.

It is amply apparent from the foregoing statement that Congress has the constitutional power to acquire lands and forest reserves in a State by purchase, condemnation, or otherwise, as an aid to navigation, if it be made to appear to Congress that such reserves would materially or substantially aid navigation.

WILLIAM G. BRANTLEY.

We concur in the conclusion of Mr. BRANTLEY.

JOHN H. FOSTER.  
E. Y. WEBB.  
CHARLES Q. TIRRELL.  
HENRY S. CAULFIELD.

I concur with Mr. BRANTLEY in his conclusion that Congress has the constitutional power to acquire lands strictly in the interest of navigation, but as the bills pending before the committee are, in my opinion, not based primarily upon this proposition, I desire to guard against committing myself to the policy which I believe to be involved.

CHAS. C. REID.

Mr. TELLER. Mr. President, I know very well that this scheme will eventually be adopted. I have no doubt about it. Whether it will be at this particular time I have some doubt, because I do not believe the other House will pass it. That remark may be out of order—I think it is—and if so I will withdraw that part of it.

But, Mr. President, I have discovered that whenever there is difficulty anywhere, a matter that ought to be rectified, Congress is the body that is applied to. I have an idea that it was the theory of the Government that the National Government should deal with things the States could not properly do. There are plenty of court decisions to that effect. We have had repeated declarations of that kind by public men for many years; and that is the law, Mr. President, which ought to govern us here.

It is not any answer to me to say timber is being destroyed. It is not any answer to say the soil of the New Hampshire hills is being washed into the valleys. If anybody can protect that timber, it is the State of New Hampshire; if anybody can protect the soil, it is the State of New Hampshire; and when you take away from the State the opportunity to do that you minimize and destroy the right of the State.

Now, Mr. President, I am going to let this matter rest where it is. I do not believe I will make any further discussion of it; I will yield to the Senator from Nevada [Mr. NEWLANDS], if he wants to proceed.

The VICE-PRESIDENT. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated by the Secretary.

The SECRETARY. A joint resolution (S. R. 74) suspending the commodity clause of the present interstate-commerce law.

Mr. KEAN. I ask unanimous consent that the unfinished business be temporarily laid aside.

The VICE-PRESIDENT. Without objection, it is so ordered.

Mr. NEWLANDS. Mr. President, I have very little familiarity with the pending bill. I understand that it provides for the acquisition by the General Government of the White Mountain forests, which are the source of the Merrimac and Connecticut and other rivers in New England, and of the Appalachian Mountains, which are the source of most of the rivers of Virginia; all of the rivers, I believe, of North Carolina, South Carolina, and Georgia, and most of the rivers of Alabama and Tennessee.



The Senator from Colorado [Mr. TELLER] objects to the bill, and he states that the national purpose for which these forests are to be acquired, namely, the promotion of navigation as part of interstate and foreign commerce, is a mere pretense; that the real purpose of their acquisition is to use them for timber supply, for pleasure resorts, and for the development of water power in manufacture, and he refers in confirmation of this to the hearings in the House committee, where various citizens appeared, testifying to the uses to which these forests could be put. He also refers in terms of criticism to the legislation of the various States affected, South as well as North, granting to the National Government a certain jurisdiction over these forests in case they should be acquired.

Mr. President, so far as the statutes of the States are concerned in which these various cessions are made, it does not seem to me that they are properly before us now. It may be, as the Senator says, that these various States had not the power to grant anything to the National Government; that they had no power to give it a power where none existed or to make cessions of jurisdiction.

That may all be true, but I suggest that the question before us is whether the National Government has the power under the Constitution to acquire these forests, not whether the States can cede to the National Government such power or can cede it jurisdiction over the lands acquired.

So the question is not whether the people of these various States wish to promote other interests, such as pleasure resorts, timber supply, and manufactures. All those may be incidentally promoted by the preservation of a forest, whether that forest be preserved by the States or by the nation. The question simply before us is whether the nation has the power to acquire these forests in the interest of interstate and foreign commerce and of the navigation of the rivers which form so important a part of this commerce.

If the power exists, I imagine that Congress is the judge as to when and to what extent it will exercise the power, and the mere failure in discretion will not invalidate the act. But is it possible that there is any failure of discretion in this contemplated act?

Are there any considerations which should be addressed to us as legislators regarding the policy of this act, the power of acquisition being conceded?

I contend there can be no question that wise public policy requires that the nation should move in this matter, and not leave the action entirely to the individual States. I would welcome the cooperation of the States in this great movement. I trust that in this great scheme of internal improvement the energies of the States will be aroused as well as the energies of the National Government.

But a State can only act within its own boundaries, and nature has had no regard whatever for the artificial boundaries of States in its distribution of our rivers. These rivers are rarely, almost never, within the boundaries of a single State, and sometimes they constitute the boundaries between great States.

So it is utterly impossible for any individual State to take up the problem in any comprehensive way, and if the States are to act at all they must act in unison and in cooperation with each other. It does seem to me that the Union of States was organized for the purpose of bringing about cooperative action within the powers granted, and if we can find a power granted that will cover this case the best method of accomplishing cooperation between the States is through the action of the National Congress under the power granted in the Constitution.

Now, that power is the power to regulate interstate and foreign commerce, and under that power, according to the statement of the Senator from Colorado, the National Government has an easement upon every river in the country that is either navigable or capable of being made navigable. I will venture to say we can go further than that; that it has an easement and control over every river that is not navigable, provided such river is tributary to a navigable river and the treatment of that river by scientific methods will promote the navigability of the main river into which it empties.

So the power of the National Government not only extends to those parts that are navigable and those parts that are capable of being made navigable, but it is carried to the remote sources of the streams themselves and the very springs from which they arise, if it can be proved that the control of those sources is essential to the control of the main river itself for the purposes of navigation.

Mr. ALDRICH. Has the pending measure had the consideration of the Inland Waterways Commission, and do they approve of this legislation?

Mr. NEWLANDS. Mr. President, we have not had either of these specific propositions before us. The Commission has simply taken up the general problems relating to forest preserva-

tion as a part of the development of our waterways, and the opinion is, I think, unanimous that one of the most essential parts of stream treatment and control is the conservation of the waters in these great forests, holding the flood waters and preventing them from being precipitated rapidly into the streams, thus increasing the floods and impeding commerce.

Mr. President, so far as the Appalachian Mountains are concerned, we have the States of Virginia, North Carolina, South Carolina, Georgia, Alabama, Kentucky, Tennessee, and Pennsylvania interested. These mountains are the sources of almost all the rivers that are either navigable or capable of being made navigable in those States, some of the rivers flowing toward the west into the Gulf of Mexico and the others flowing east into the Atlantic Ocean.

Now, how have we treated those rivers thus far? Most unscientifically. The bulk of the expenditure of the nation in the promotion of navigation has been on the rivers which have their sources in the Appalachian Mountains, and the treatment has consisted in what? In flood prevention? No. In the prevention of the erosion of the soil? In a very slight degree. The treatment has consisted in taking out of the rivers by the process of dredging the sand and silt deposited in the rivers during the periods of flood.

What has scientific experience demonstrated as the best method of treating these rivers? The prevention of the floods themselves, the prevention of the erosion of the soil, the prevention of the destruction of the banks, so that the sand and silt may not be deposited in the rivers to be afterwards taken out by the process of dredging.

Flood control, then, is absolutely essential. It is familiar to us all that these forest areas when denuded of their trees rapidly precipitate the waters that fall upon the lands into the tributaries of these great rivers, and the waters are thus forced into the main rivers and create the destructive floods; and they deposit the sand and silt and alluvial soil in the channels of the rivers, whence they are gradually carried into the bays, gulfs, and sounds of the coasts, where they are obstructive to navigation.

Mr. FULTON. Mr. President—

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Oregon?

Mr. NEWLANDS. Certainly.

Mr. FULTON. I understand the Senator, for the reasons which he has just stated, contends that this is constitutional legislation under the commerce clause.

Mr. NEWLANDS. Yes.

Mr. FULTON. I suggest to the Senator a stronger ground on which to plant the constitutionality. It has been suggested that it should be planted on the right of the General Government to maintain post-roads. The floods washing down the mountain sides make gulleys in the roads, undermine the roads, and make it dangerous for the stage drivers to drive along the roads at night. Clearly it is within the constitutional competency of Congress to protect the stage drivers on a post-road, and I should think that that was a better ground upon which to base the constitutionality of the bill.

Mr. GALLINGER. Mr. President, I think I can give the Senator from Nevada a much stronger reason for the constitutionality of the bill than the Senator from Oregon has in his suggestion about the stage drivers and the bad roads of his part of the country.

Mr. FULTON. No, Mr. President, not in my part of the country, but in the particular part of the country to which the bill applies and to which it is addressed. Besides, these post-roads extend over the mountains, and unquestionably the floods are approximately the cause of any injury that results to the roads.

Mr. GALLINGER. If the Senator will honor us with a visit to the White Mountains of New Hampshire he will find roads there as good as there are in the world, and he will find upon inquiry that the State of New Hampshire has constructed those roads.

Mr. President, I want the attention of the Senator from Nevada [Mr. NEWLANDS], because he is going to discuss the constitutionality of this measure, and I want him to know the facts. More than a year ago in the agricultural appropriation bill this provision was put in the bill:

And to report to Congress the area and natural conditions of said watersheds—

That is, the watersheds of the Appalachian and White Mountain regions—

the price at which the same can be purchased by the Government, and the advisability of the Government purchasing and setting apart the same as national forest reserves for the purpose of conserving and regulating the water supply and flow of said streams in the interest of agriculture, water power, and navigation.

Congress took that action more than a year ago, and acting upon that, the investigation has been made, out of which investigation has grown the bill that is now before Congress.

If the Senator from Nevada [Mr. NEWLANDS] will bear with me a moment longer, as the Senator from Colorado [Mr. TELLER] has called attention to the opinion of the chairman of the House Committee on the Judiciary, I want to read a few sentences that were concurred in by several members of that committee. In commenting upon this provision in the agricultural bill, this gentleman says:

The important thing here to be observed is that the Fifty-ninth Congress in ordering said survey distinctly directed that information be furnished as to the advisability of acquiring the proposed forest reserves, not as an end in itself, but as a means to other specified ends, to wit, "for the purpose of conserving and regulating the water supply and flow of said streams in the interest of agriculture, water power, and navigation."

It is a just assumption that the Fifty-ninth Congress felt authorized in appropriating money for this survey, and it is to be noted that one of the ends sought to be achieved by the survey, whatever may be said of the others, was clearly within the constitutional power of Congress, and that end is the conserving and regulating the water supply of certain streams in the interest of navigation. I have examined the report of the Secretary of Agriculture made in pursuance of said direction of the Fifty-ninth Congress. The same is embraced in Senate Document No. 91, Sixtieth Congress, first session. In this report the Secretary states, among other things, that "all the waters gathered by the Southern Appalachian and White Mountains flows to the sea through navigable rivers," and he submits an argument supported by facts presented by him that the preservation of the forests in these mountains would equalize the flow of these rivers, tending to the avoidance of floods and freshets and to a greater volume of water in time of drought.

I owe an apology to the Senator from Nevada for taking so much of his time, but as the Senator from Oregon [Mr. FULTON] raised the question, rather jocularly, as to the constitutional right of this proposed legislation, I wanted to call the Senator's attention to the fact that Congress more than a year ago, in the provision which I have read, provided for this investigation along constitutional lines.

Mr. ALDRICH. Mr. President—

The VICE-PRESIDENT. The Senator from Nevada is entitled to the floor. Does he yield to the Senator from Rhode Island?

Mr. NEWLANDS. I do.

Mr. ALDRICH. I should like to ask the Senator from Nevada if he can tell us about how long it will be before this Inland Waterways Commission will be able to furnish Congress any solution of these difficult problems? The country is awaiting, with more or less expectancy, a report from that Commission. I should like to know whether such a report is likely to reach Congress in time to act upon this bill intelligently at this session or will it be received later on?

Mr. NEWLANDS. I will state that before the Inland Waterways Commission made its report and at the very commencement of its deliberations after its investigation of the last summer I introduced in the Senate a bill, No. 500, which I presented tentatively, as representing my individual views upon the subject. In that bill I provided for an inland waterway fund of \$50,000,000, which is to be reinforced whenever reduced below \$20,000,000 by a bond issue. I also provided in that bill for the coordination of the various scientific surveys of the Government in the development of this work, and also for the appointment of a commission of experts—a board of experts—by the President with full power not only to make plans, but to act and to commence immediately the construction of the various projects which they recommended after their approval by the President of the United States.

The bill also provided for cooperation with the various States in these matters. So that where there were any questions relating to the development of rivers that could not be, as a matter of national power, undertaken by the National Government itself, they could be undertaken by the State governments and by corporations and by individuals, so that we would have everybody—the National Government, the State governments, corporations, and individuals, whoever had any right or interest in the stream—at work in the matter of the development of these rivers for every purpose to which they could be put in civilized society, including, of course, navigation, which is the only power under which the nation could act.

I would prefer not to go into that question at any length, because I understand that the chairman of the committee is desirous of having a vote upon the bill this afternoon, and I do not wish to absorb too much time. I shall present my views regarding the inland-waterways bill when I move the Senate to take up the modified bill which was introduced by me the other day, which provides for the continuance of this Commission and a small fund for expenses. I simply wish to say a word more upon this matter.

Mr. CLARK of Wyoming. Mr. President—

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Wyoming?

Mr. NEWLANDS. I do.

Mr. CLARK of Wyoming. I want to get the judgment of the Senator from Nevada. I understand this measure contemplates an expenditure of something over \$20,000,000—\$5,000,000 in this bill and looking to fifteen or twenty million dollars later on—in order to carry out the project under the report that was made by the Commission which has investigated it. I understand further that the Senator from Nevada is very much in earnest in his desire to get a permanent inland waterways commission, which shall investigate and pass upon the necessities of the Government in regard to water transportation. I understand further that that Commission, which has been working for some time, has not yet made any report upon this project.

Now, I want to ask the Senator from Nevada if, in his judgment, it is not the wiser course, before entering upon this expenditure of \$20,000,000, to wait until we shall have a favorable report, if it be favorable, of the expert Commission upon this project.

Mr. BRANDEGEE. Mr. President, will the Senator from Nevada yield to me for a moment?

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Connecticut?

Mr. NEWLANDS. I do.

Mr. BRANDEGEE. I want to suggest to the Senator from Nevada that, so far as I know, there is no proposition to spend \$20,000,000; but there is a proposition to buy what land we can in the White Mountains and in the Appalachian Mountain country for \$5,000,000. After that has been administered under the provisions of this bill, if the Department suggests that further action be taken and more money appropriated, then it will be a matter for some future Congress to determine.

Mr. CLARK of Wyoming. Mr. President, if the Senator will bear with me there—

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Wyoming?

Mr. NEWLANDS. I am ready to answer the Senator's question.

Mr. CLARK of Wyoming. Mr. President, if the Senator will pardon me a moment, in that view of the case I can not see any reason for this appropriation of \$5,000,000, because, if this bill is justified, it is justified in view of the report which has been made by the Commission appointed to examine this project. If anything is justified to be done under this project, it is to expend the twenty or twenty-odd million dollars which will be required to make it successful. I understand perfectly well, as the Senator states, that it is not a proposition—

Mr. HOPKINS. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wyoming yield to the Senator from Illinois?

Mr. CLARK of Wyoming. I do.

Mr. HOPKINS. I want to suggest to the Senator that I think the proposition of acquiring the territory as described in this bill is one that antedates the Commission of which he speaks, by which so large an amount of money is to be ultimately expended.

Mr. CLARK of Wyoming. That is true, and nobody was able to form any idea of what the cost of the proposition was. One of the purposes of the appointment of this Commission was to ascertain the cost of the project and whether it can be properly carried out. We have the report of this Commission, in which they say that they have not been able to get an estimate of the amounts for which the land can be bought, but from what they have ascertained as to the value placed upon the lands and what they can be obtained for by condemnation proceedings, they believe, I think, that it would amount to \$20,000,000.

Mr. BRANDEGEE. Mr. President, it seems to me, with the permission of the Senator from Nevada—

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Connecticut?

Mr. NEWLANDS. I do.

Mr. BRANDEGEE. It seems that the Senator from Wyoming has put an entirely erroneous construction upon the proposition. He seems to want the Senate to infer that unless Congress shall decide in future to spend \$15,000,000 more this \$5,000,000 that we shall probably to-day authorize to be spent will have been wasted.

Mr. CLARK of Wyoming. That is just exactly it.

Mr. BRANDEGEE. There is nothing to that, in my opinion; for if they spend, say, \$5,000,000 for certain portions of the land at the head of certain streams, and it does protect and preserve the navigability of those streams, I do not see any waste about it; but if the experiment is proven to be successful



and future Congresses want to go further, they can do so, but if the experiment should be a failure, then, of course, the money would be lost, though it would not be \$20,000,000; it would be \$5,000,000.

Mr. HOPKINS. I wish to ask the Senator from Connecticut, in view of his explanation, if it would not be wiser for us to embark upon the expenditure of the \$5,000,000 proposed in this bill than to appropriate the entire \$20,000,000, because if the expenditure of the \$5,000,000 does not conserve the interest of the navigability of these streams it would be an argument for not appropriating the additional \$15,000,000?

Mr. BRANDEGEE. Precisely. The grievance of the Senator from Wyoming is that we are not wasting enough money, as I understand.

Mr. CLARK of Wyoming. Mr. President—

Mr. NEWLANDS. Mr. President, I must decline to be interrupted further.

Mr. CLARK of Wyoming. The Senator from Wyoming has no grievance. He simply rose to ask the judgment of the Senator from Nevada [Mr. NEWLANDS].

Mr. NEWLANDS. Mr. President, the Senator from Oregon [Mr. FULTON] put a question to me, which I assume was facetious, and to which he hardly expects a serious reply. So far as the Senator—

Mr. FULTON. Mr. President—

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Oregon?

Mr. NEWLANDS. I must decline to yield further.

The VICE-PRESIDENT. The Senator from Nevada declines to yield.

Mr. NEWLANDS. I will state to the Senator from Oregon that I assured the Senator from Connecticut a short time ago that I would not exhaust much time. I know he is anxious to get on with his bill, and I want to proceed with my remarks. So I must decline to yield.

Mr. FULTON. I must express the hope that the Senator will reform his judgment touching my purpose in asking the question.

Mr. NEWLANDS. Now, as to the inquiry of the Senator from Wyoming [Mr. CLARK]. I understood the Senator to ask whether it would not be better to postpone action upon this bill until after the Inland Waterways Commission, of which I am a member, can consider this project and report upon it. I wish to say to him that I think he misconceives the purpose and function of the Inland Waterways Commission. It has no foundation in statute at all. It is not a body of experts authorized by statute to pass upon these questions.

Mr. HALE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Maine?

Mr. NEWLANDS. Certainly.

Mr. HALE. The Senator refers to some kind of a commission, which he terms the "Inland Waterways Commission." What legally constituted commission is that? What real tribunal is it?

Mr. NEWLANDS. I will state to the Senator from Maine that that Commission has not the authority of any statute passed by the Congress of the United States. It exists simply by the personal selection of the President as advisory to him in recommending to Congress a plan of legislation, his power being derived from that provision of the Constitution which gives him the right to make recommendations to Congress. Of course included in that right is the right to seek information anywhere, to call upon individuals or call upon the people collectively, or to appoint a committee or a commission for that purpose purely advisory to himself. He selected as members of that Commission the Chief of the Corps of Engineers of the Army, the Chief of the Reclamation Service, the Chief of the Forestry Service, a member of the Bureau of Soils, the Chief of the Bureau of Corporations, the chairman of the House Committee on Rivers and Harbors [Mr. BURTON of Ohio], the Senator from Alabama [Mr. BANKHEAD], who had been the leading minority member of that committee in the House, the Senator from Missouri [Mr. WARNER], and myself.

Of that Commission Mr. BURTON was made chairman. I will state that I was quite surprised when I received a letter from the President requesting me to serve upon this Commission, as I represented a State that had no navigable waters. I assumed, however, that the reason for my selection was that in formulating this plan the President desired to avail himself of the experience of one who was interested in irrigation and who had had something to do with the legislation upon that subject, and that the consideration of irrigation was necessary in the study of stream control, the purpose of the inquiry being to co-ordinate the action of all the scientific branches of the Govern-

ment relating to water under one plan of legislation, so they could all work harmoniously for the development of these rivers.

Mr. HALE. What I am waiting for is for the Senator to tell me—he refers to this as the Inland Waterways Commission—how it became constituted a commission, because a commission is always understood, and ought to be understood, as a real, legally constituted body, with defined powers, which make it an active, operative commission, and I was asking the Senator, who knows a great deal more about it than I do, what created this a commission?

Mr. NEWLANDS. Simply the personal selection by the President of certain men whom he thought qualified to aid him in the preparation of a plan of legislation upon this great subject which, if he approved, he could recommend to Congress.

Mr. HALE. Mr. President, did the members of this body receive a commission, a certificated appointment, something that carried with it legal powers? It was something more than an invitation to appear, I suppose, at a certain time and confer together. It being called a Commission—I am not disposed to belittle it, for it is an extremely important subject-matter—my theory, with some experience in Congress, is that a commission is something more than a meeting of certain gentlemen together to talk things over. A commission is, or should be, a legally constituted body, and I was only asking the Senator what it was that made this a legally constituted body.

Mr. NEWLANDS. I will state—

Mr. BEVERIDGE. Will the Senator permit me?

Mr. NEWLANDS. If the Senator will let me make my answer, I will state that if it is necessary that a commission should have the authority of a statute passed by Congress, then he is entirely right in the assumption that it is a misnomer to call this a commission, but I do not understand that that is the definition of a commission. It has been the custom, as I understand, of the President to appoint an advisory committee or commission of this kind to consider questions that he has in view regarding legislation, with a view to aiding him in the preparation of a plan and recommendation to Congress. He might call it a committee, he might call it a commission, he might call it a board, but it has never been contended, of course, that this has the sanction of Congressional action. I will state—

Mr. BEVERIDGE. Mr. President—

Mr. NEWLANDS. If the Senator will permit me one moment, I will state that, as a member of this Commission to which the Senator refers, I received no commission, as I understand. I received a personal letter from the President, stating his purpose, and asking me whether I would act upon this Commission, with a view to preparing this plan of legislation.

At first I had some doubt as to whether I, as a member of a legislative body, could with propriety serve upon such a commission. I felt satisfied, of course, that I could not serve upon an executive commission or a commission organized by Congress for the purpose of discharging executive duties, such as a board of experts for the purpose of considering and executing projects would be; and so I was in some doubt; but I came to the conclusion that under the power granted by the Constitution to the President of making recommendations to Congress it was entirely within his province to ask for aid and seek aid or information anywhere, with a view to facilitating his labors, and that it would be entirely appropriate for me to act upon this commission in this advisory way.

Mr. BEVERIDGE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Indiana?

Mr. NEWLANDS. Yes.

Mr. BEVERIDGE. If the Senator will permit me just a moment with reference to the question asked by the Senator from Maine [Mr. HALE]. The Senator from Maine, of course, is technically correct, and yet such a commission, in the real meaning of the term, not the technical meaning of the term, although without any Congressional sanction, might afterwards be ratified and accomplish a very great public good, as, for example, the Commission that settled the questions involved in the anthracite coal strike, which, if I remember correctly—and if I do not some Senator will correct me—was appointed in precisely the way the Inland Waterways Commission was. They not only were appointed, but they sat and had hearings; they examined all the testimony involved; they made a finding, and they settled the strike and cleared up the entire difficulty, which was too grave and far-reaching and serious to have awaited Congressional action, because it was on hand at that moment. So wise were the conclusions of the Commission that afterwards when Congress met, as I remember, they ratified the action of that Commission by voting a compensation to the

commissioners. That is an illustration of the substantial nature of a commission after all, although it might not technically be established by law. I am much obliged to the Senator from Nevada for yielding to me.

Mr. NEWLANDS. Mr. President, I ask the pardon of the Senator from Connecticut [Mr. BRANDEGEE] for allowing this discussion to be injected into this debate, because I know that it delays the consideration of his bill, but—

Mr. ALDRICH. Mr. President, will the Senator bear with me a moment to ask him a question?

Mr. NEWLANDS (continuing). I will be very brief and will add only a few remarks on the bill before the Senate.

Mr. ALDRICH. Mr. President—

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Rhode Island?

Mr. NEWLANDS. Certainly.

Mr. ALDRICH. If the Senator will bear with me for another question—

Mr. NEWLANDS. Certainly.

Mr. ALDRICH. I should like to ask whether there has been any definite statement made anywhere of the functions of this important Commission to which the Senator has referred?

Mr. NEWLANDS. There is a statement made in the message of the President in which he said that he had appointed this committee or commission to consider this plan of legislation; that they had made a partial report; that it was highly desirable that the work of the Commission should continue, and that it should receive the sanction of law in order, I imagine, that the expenses of the Commission might be paid. I will state that, so far as I am individually concerned, I would never receive compensation for my services in connection with this work, but there are other members of the Commission who are not members of the legislative body, who, I think, ought to receive some compensation.

Mr. ALDRICH. They are evidently acting in cooperation with the governors. There are no governors on the commission, as I understand.

Mr. NEWLANDS. There are no governors on the Commission.

Now, Mr. President, regarding this particular bill, I wish to say that the control of the stream flow is of the highest importance to navigation. It is important that a full and equal flow should be maintained, not a spasmodic flow, not a flow of floods at certain seasons and of a stream reduced to a mere thread at other seasons. It is of the highest importance that there should be an equal flow, and for this reason it is essential that storage should be accomplished in some way. Storage can be accomplished by artificial reservoirs or it can be accomplished by the acquisition of natural reservoirs. The forest is such a natural reservoir, for when the lands are stripped of their forests, waters falling upon them rush into the streams and increase their flow, destroy the banks, deposit sand and silt in the rivers, which constitute obstructions to navigation. So that a proper stream control involves not only the preservation and the conservation of the forests, but the prevention of soil erosion, the prevention of the destruction of banks by a system of bank revetments and levees, and the reclamation of swamp lands themselves in a measure; for the construction of levees with a view to stream control necessarily involves the reclamation of swamp lands adjoining. So all these problems are involved.

But the Senator from Wyoming [Mr. CLARK] asked me why I am willing to support this project when evidently this entire scheme of legislation involves full and comprehensive plans that will involve the irrigation of arid lands at the sources of these rivers, the preservation of forests, the protection of banks, the development of water power through the construction of dams and the reclamation of swamp lands. My answer is that I prefer a comprehensive plan, but thus far I have been unable to get a bill out of the Committee on Commerce; and I therefore deem it advisable, whenever an individual project comes up as meritorious as this is, to support it and to help put it through, for there can be no question whatever but that the purchase and preservation and conserving of these forests will be absolutely essential to any scheme of waterway development to be entered upon in the future, however comprehensive the plan may be. So I am heartily in favor of this bill as an entering wedge in this comprehensive scheme of waterway development.

The Senator from Colorado [Mr. TELLER] says that we have always been attending to waterways heretofore, and that there is no more movement in this direction now than there has been. I think the Senator is oblivious to the signs of the times. I am sure that wherever I have been during the last summer I have found people in every section alive upon this question. They have been holding local conventions in every part of the Union;

they have organized water associations on the Pacific coast; they have organized the Mississippi River Association, the Upper Mississippi River Association, the Missouri River Association, the Deepwater to the Gulf Association, the Atlantic Coast Waterways Association, and all of these conventions, including the Rivers and Harbors Congress, have been meeting during the past year and have been giving expression to a public sentiment upon the subject which is intense. The country at large is not satisfied with the action of Congress in the past. We have spent nearly \$500,000,000 in the development of our waterways, and have done it ineffectively, simply because we have had no broad and comprehensive plan into which everything relating to the development of these rivers for every beneficial purpose could be dovetailed.

It will not be until we adopt such a plan, involving the co-ordination of all the scientific services and bureaus of the Government that have any relation to water, and involving the cooperation of the States and municipalities, so far as their powers and their interests lie, that we can hope to have the complete development of our waterways for every purpose to which civilization can put them, one of the most important, of course, being navigation as a part of interstate and foreign commerce.

I do not contend for one moment that the nation has any power in this matter outside of the interstate-commerce clause, but in that way it has the greatest interest in these rivers. Whatever we may say about the jurisdiction of the States and the rights of the States, whatever we may say about the powers and rights of riparian owners, it is apparent that the nation, having an easement in every navigable stream and in every river capable of being made navigable and in the tributary streams to those rivers which can be made navigable as a part of the stream control, has a larger interest in these rivers than any of the States or all of the States combined, or any of the municipalities or all of the bank owners, or all of them combined. It is essential, therefore, that the nation should enter into cooperation with all in this great work.

Mr. President, the people have evidenced in every way their intense feeling on this subject. Senators will find in the platforms of both parties during the next campaign the most emphatic expressions upon this subject. There is a feeling that Congress has been lagging upon this question; that Congress is guilty of inertia and apathy and indifference; and the only answer that can be made to the charge is that Congress rarely creates public opinion, but always responds to public opinion, and when public opinion becomes sufficiently definite and demonstrated Congress always acts. The time for action has now come, because public opinion has been formed. There is no question about it. I would have been glad if the comprehensive plan which I presented to Congress early in the session, and which has been debated upon this floor and which has been presented to the Committee on Commerce, and which has in its main and essential features the approval of the Secretary of War and of the Inland Waterways Commission and of the subcommittee of the Committee on Commerce, could have been put upon the statute books at this session. But with the pressure of business, realizing it would be impossible to get this great and comprehensive plan fully before Congress, I introduced a lesser measure, providing simply for a continuance of the Commission and for its expenses not exceeding \$20,000. I have endeavored to secure consideration of this lesser bill by unanimous consent, but objection has been made. I shall at the earliest moment move the Senate for the present consideration of this bill, in order that the sanction of Congress may be given to the investigation already inaugurated by the action of the President.

Mr. NEWLANDS appended to his remarks the following remarks of Mr. Bryan at the Conference on the Conservation of Natural Resources, May 15, 1908:

#### REMARKS OF MR. BRYAN.

I acknowledge my obligation to President Roosevelt for the opportunity which he has given me to participate in this meeting. The conference marks the beginning of a new era, during which increasing attention will be given to the far-reaching problems involved—in the conservation of the nation's resources. The epoch-making speech with which the Chief Executive opened the first session must exert a powerful influence upon the country at large, as it has upon those who were fortunate enough to hear him.

The assembling of the governors of nearly all the forty-six States is in itself an historic event of the first magnitude, for this meeting, and the future meetings which this one assures, will facilitate cooperation between the States, make easier the doing of those things which should be done by the National Government, and stimulate the several States to act more speedily and with better information upon the things which should be done by the States independently. There has been some difference of opinion as to the relative spheres of the nation and the State, but such discussions as we have had here will help to define these spheres and to harmonize conflicting opinions.

I am a strict constructionist if that means to believe that the Federal Government is one of delegated powers and that constitutional



Limitations should be carefully observed. I am jealous of any encroachment upon the rights of the States believing that the States are as indestructible as the Union is indissoluble. It is, however, entirely consistent with this theory to believe, as I do believe, that it is just as imperative that the General Government shall discharge the duties delegated to it, as it is that the States shall exercise the powers reserved to them.

There is no twilight zone between the nation and the State, in which exploiting interests can take refuge from both, and my observation is that most—not all, but most—of the contentions over the line between nation and State are traceable to predatory corporations which are trying to shield themselves from deserved punishment, or endeavoring to prevent needed restraining legislation. The first point which I desire to make is that earnest men, with an unselfish purpose, and concerned only for the public good, will be able to agree upon legislation which will not only preserve for the future the inheritance which we have received from a bountiful Providence, but preserve it in such a way as to avoid the dangers of centralization. Nothing that is necessary is impossible; and it would be a reflection upon the intelligence, as well as upon the patriotism of our people, to doubt the value of gatherings of this kind.

The time allotted to each speaker is so short that instead of attempting to discuss the various questions presented I shall content myself with a few suggestions in line with the very able papers that have been presented by the specialists who have appeared before us. I begin with the proposition that it should be our purpose not only to preserve the nation's resources for future generations by reducing waste to a minimum, but that we should see to it that a few of the people do not monopolize that which is in equity the property of all the people. The earth belongs to each generation, and it is as criminal to fetter future generations with perpetual franchises, making the multitude servants to a favored fraction of the population, as it would be to unnecessarily impair the common store. I am glad that Secretary Garfield emphasizes this point. It is one that must always be kept in mind by the nation and by the several States.

The first national asset is to be found in the life of the people, and Mr. Mitchell very properly and with great force pointed out the importance of safeguarding the life, the limbs, and the health of those who are engaged in converting the nation's natural resources into material wealth. I would go a step further and say that we could well afford to include in the appropriations made by Congress a sum sufficient to carry on necessary investigations into the cause of diseases national in their scope, and to stimulate the search for remedies which would add to the life, health, and usefulness of the whole population.

I was surprised at the statistics given in regard to our coal and our iron ore. While it is possible that new coal measures and new ore beds may be discovered, we can not afford to base our conduct upon speculations as to what may yet be discovered. We should begin an intelligent supervision and conservation of that which is known to exist, and I respectfully submit that it is worth while to ask ourselves whether we can afford to offer a bounty to those who are engaged in exhausting the supply of raw materials, which when gone can not be replaced. Surely if there is any importation which we can properly encourage by a free list, it is the importation of those raw materials of which our own supply is limited. And what I say in regard to coal and iron ore is equally applicable to timber. It is hardly consistent to discourage the importation of lumber, while we worry about the devastation of our forests.

Mr. Hill has rendered the conference a real service in presenting the facts and statistics set forth in his address on land and its cultivation. Few of us, probably, were conscious of the impairment of the crop value of our soil. I am sure that a clear understanding of this subject will lead to a still further enlargement of the work of the Department of Agriculture and to still closer cooperation between the Department of Agriculture and the States in teaching economical methods of agriculture. Already the rapid growth of the agricultural college offers encouragement, and I am glad to express my appreciation of the valuable work done by Secretary Wilson and his associates in bringing to our country fruits, plants, and grasses suited to the different parts of our country. As the farmer pays more than his share of the taxes and receives less than his share of the direct benefits which flow from national appropriations, it is only justice to him that we shall be liberal in the support of every effort put forth for the improvement of agriculture.

Irrigation has justified the arguments which led to the inauguration of the work. No one who has witnessed the transformation of the desert into field and garden can doubt the wisdom of the steps that have been taken. Here, as elsewhere, both the nation and the State can find a field for legitimate activity, and I am sure that there will be a continuation of this work until all of the waters which can be utilized for that purpose have been appropriated.

The same principle which was invoked in support of irrigation can be invoked in support of drainage. The question is not whether the water should be brought upon the land or taken off the land; it is whether the land shall be made tillable and its wealth-producing qualities utilized. Drainage of the swamps is, therefore, as legitimate a work as the reclamation of arid wastes.

No subject has been brought out more prominently at this conference than the subject of forestry, and it justifies the time devoted to it, for our timber lands touch our national interests at several points. Our use of lumber is enormous, but immense as would be the inconvenience and loss caused by the absence of lumber the consequence of the destruction of our forests would be still more disastrous to the nation. As has been shown, the timber on our mountain ranges protects our water supply. Not to speak of changes in climate which might follow the denuding of our mountains, the loss to the irrigated country could not be remedied and the damage to the streams could not be calculated. And if this is not enough to arouse the interest of all, I may add that the destruction of the forests on the mountain ranges would in time impair the underflow upon which we rely for our well water.

The good effects of this conference are already apparent in the determination expressed by several governors to at once appoint forestry commissions and begin such work as the State can do. In this case action is so urgent and the field to be covered so large that both the nation and the several States can exercise themselves to the full without danger of doing too much. The national reservations already made in the West and the new reservations that ought to be made and are likely to be made in the White Mountains and in the Appalachian Range can doubtless be so administered as to protect national interests without unduly burdening the States in which the reservations are located, or needlessly interfering with the development of the States. No national policy need retard the development of the Western States, and their own interests would restrain them from sacrificing future wealth and protection for temporary advantage.

Lastly, I come to our interior waterways. I shall not defend the improvement of these waterways on the ground that such improvement would help to regulate the railroad rates, although it would aid regulation, for regulation can be secured by legislation whenever the people are ready to exercise the power which they have. But water traffic is less expensive than traffic by rail, and there are many commodities which can be transported much more cheaply by water than they could possibly be carried on land. I believe it has been estimated that an expenditure of \$500,000,000 on interior waterways would result in a saving of nearly \$200,000,000 annually.

If this saving were equally divided between the producers and the consumers it would be an enormous profit to both, and Mr. Carnegie has pointed out that water transportation, by requiring less iron and less coal in proportion to the freight carried, would enable us to postpone the exhaustion of our iron mines and our coal beds.

The development of water transportation is essentially a national project, because the water courses run by and through many States. And yet, as has been pointed out, it would be possible for the States to do a certain amount of developing along this line if they were permitted to avail themselves of the use of the water power that could be developed.

Just a word in conclusion about an investment in permanent improvements. Money spent in care for the life and health of the people, in protecting the soil from erosion and from exhaustion, in preventing waste in the use of minerals of a limited supply, in the reclamation of deserts and of swamps, and in the preservation of forests still remaining and the replanting of denuded tracts—money invested in these and in the development of waterways and in the deepening of harbors, is an investment yielding an annual return. If any of these expenditures fail to bring a return at once, the money expended is like a bequest to those who come after it. And as the parent lives for his child, as well as for himself, so the citizen provides for the future as well as for the present. This gathering will be remembered by future generations because they, as well as ourselves, will be the recipients of the benefits which will flow from this conference. We have all been strengthened by communion together; our vision has been enlarged, and the enthusiasm here aroused will permeate every State and every community.

Mr. DANIEL. Mr. President, I expect to vote for this bill, and I will preface my remarks by reading a few words from a recent writer on this subject:

In fifty years we shall have whole States as bare as China. The Appalachians will be stripped to bed rock. The Rockies will send down vast floods, which can not be controlled. The Canadian forests north of the Great Lakes will be swept away. Our Middle West will be bare. The Yazoo Delta will be ripped apart, because no levee will be able to stand the floods of those days. We shall be living in crowded concrete houses and at double the rent we now pay. We shall make vehicles of steel; use no wood on our farms. We shall pay 10 cents for a newspaper; 50 cents for a magazine; as much for a lead pencil. Cotton will be immensely higher. Beef will be the privilege of the few. Clothing will cost twice what it costs to-day. Like Chinamen, our children will rake the soil for fuel or forage or food. We shall shiver in a cold and burn in a heat never before felt in this temperate zone, meant by God as a comfortable growing place for splendid human beings, unless we wake up.

This, Mr. President, is the grewsome prophecy of Emerson Hough in a magazine article in which he sententiously states what is the foreshadowing as to the condition of our country if we allow it to be dried up by the denudation of its forests.

There are some facts related in his article which tend to support his views, amongst them that 100,000 acres of timber are cut over every day; that one-half is used by the railroads; that last year 40,000,000 feet B. M. of lumber were consumed; that 100,000,000 ties a year are under contribution from the woods; that 70,000,000,000 feet of telegraph poles were subtracted, and so on as to other drafts upon our resources of timber which are daily, hourly, consuming this portion of our heritage.

It is said that at the foundation of the Government one-half of the country was in forests, and that half of that half has gone. As the pace of our consumption has rapidly broadened and increased, it may be instantly recognized that if we have consumed a half of our forests in a little over a hundred years the great multiplication of our population, of our inventions, and of the articles which we consume, will make the next fifty years as great a source of devastation as the one hundred years past.

Mr. President, this is the primary fact that underlies this bill. It is true that many of the reports and essays on this subject speak of timber as if timber were the main thing aimed at in the bill. It concerns the forests, but the forests in the particular relation which they have to water and the water in the particular relation that it has to navigation. It concerns a subject which is a necessary means to an end. The end is navigation; the means, the preservation of the waters that we may have navigation, and the preservation of the forests that we may get water.

Out West we are turning water into the deserts, and the dry land is growing up in fields and in gardens and increasing the products for the use of man. Here, as in the West, we must commence with the forests in order to get the water, and it is for this reason that I regard this bill as constitutional.

I always listen with the greatest respect to the Senator from Colorado [Mr. TELLER] for his learning, his intellect, and for the steadiness with which he pursues a sincere conviction, but we can not always agree with anybody, and on this occasion I find myself, with all deference, disagreeing with him. I

will read from a case with which he is familiar. It is the case of *The United States v. The Rio Grande Irrigation Company*, decided by the United States Supreme Court. The opinion in that case, delivered by Judge Brewer, was unanimously concurred in, and it reviews briefly, but clearly, the relations of the State and the Federal Government to its navigable streams. Out in Colorado the legislature had changed the common-law rule as to streams within the dominion of that State, and the Supreme Court recognized its authority to do so, but said these words of limitation:

Two limitations must be recognized: First, that in the absence of specific authority from Congress a State can not by its legislation destroy the right of the United States, as the owner of lands bordering on a stream, to the continued flow of its waters; so far at least as may be necessary for the beneficial uses of the Government property.

And then:

Second, that it is limited by the superior power of the General Government to secure the uninterrupted navigability of all navigable streams within the limits of the United States.

And then this sentence:

In other words, the jurisdiction of the General Government over interstate commerce and its natural highways vests in that Government the right to take all needed measures to preserve the navigability of the navigable water courses of the country even against any State action.

This is a necessary corollary to the sole power that exists in the Government of the United States to regulate commerce. That is a complete power. There is no rival in its exercise. It is simply impossible for the States to do it, and it is conferred in specific words by the fundamental law of the United States. Under that power this Government has dug many a canal. It is daily building harbors and docks. It is turning the courses of rivers into canals. It may make a highway on land or it may make a highway of water. The highways of water dry up unless constantly fed by the vital sources that supply them. When they dry up, they then fill up and nothing but the dry parched earth remains where once flowed a stream bearing commerce.

As the United States Government may build a railroad between States—and it has been so expressly decided by the United States Supreme Court in a thorough analysis and comment on that subject—so it can not be denied by a legislative body which at almost every session of Congress provides for opening the channels of rivers, for building levees on rivers, for protecting our water courses as the cheapest and best of all the media of our interstate commerce and travel.

Now, then, I ask the Senator from Colorado how else could he suggest that the United States might preserve these natural water courses and keep water in them if not by pursuing the course which the scientists of our country, none dissenting, have urged, by preserving the natural storehouses which supply the water to the water courses?

Mr. President, while I have very briefly stated these views, I think I have touched the very center of this question. It is suggested by another gentleman that we may build lakes in the mountains, storage houses for the waters that fall from the skies—artificial ones. Is it not a simpler method to preserve the natural ones? There are thousands of places where you can not make the arrangements to store the water and where the water does not exist to be stored. If it is a more natural way, if it is an easier way, if it is more practicable to preserve the forests which are nature's storehouses of water, certainly they can not be interdicted by those who recommend us to build those that are purely artificial.

Plenty makes waste. By nature this country was stored with the most boundless supply of natural resources of any land which man has tenanted. But our growth has been rapid. Plenty has made waste. When a field along the eastern shores of our country was exhausted the inhabitant and cultivator thereof often could find a better one a few miles west, and a continuous stream of population has gone into the land from here to California, until we have reached a period when we can see the beginning of the end of our boundless resources. It is out of necessity that economy is born, and the whole nation has now to turn its attention to economizing the resources that remain to us and to bring into play the unused powers of our Constitution, that the public means and energies may be applied to that end.

I am not one of those who recommend the searching of the Constitution in order to avoid what is its plain and obvious meaning. It should be construed naturally, as men construe the language of life in their ordinary affairs, and should be taken and administered in the true sense in which its authors uttered it. But I do not think that this is a straining of the Constitution. I know that when Jefferson was pondering the acquisition of Louisiana he was a very strict constructionist of the powers of the Federal Government under the Federal

Constitution. He gravely doubted whether this country had the power. But the exigency was so great, the opportunity was so tempting, that as great a mind as his and as conscientious a statesman as he was yielded to the obvious arguments that appealed to the whole country. That mighty domain in the West, which has become the homes of millions of people, is a sufficient vindication of the action of the United States, without attempting to strain the meaning of the Constitution to bar the people from its obvious destiny.

We have to save our forests if we can do so honestly and in the line of thought of our Constitution; unless all the great jurists who have occupied seats on the Supreme Court of the United States have erred from the foundation in asserting the rights of this country to control the navigable streams and to make streams navigable that were not naturally so, to turn the courses of streams, to dig canals and pour the waters into dry and empty fields where they find it convenient and wise to make streams—unless all that body of juridical philosophy was a profound error from its inception, this proposed act is in strict line and purview of its principles. It proclaims so upon its face:

That the Secretary of Agriculture, for the purpose of preserving the navigability of navigable streams, is hereby authorized and directed, in his discretion, to acquire by purchase or gift lands more valuable for the regulation of stream flow than for other purposes.

This proposed act is careful not to trench upon what are the rights of the States. It says:

SEC. 3. That no deed or other instrument of conveyance shall be accepted or approved by the Secretary of Agriculture under this act until the legislature of the State in which the land lies shall have consented to the acquisition of such land by the United States for national forest purposes for the purpose of preserving the navigability of navigable streams.

It is true, as a matter of fact, what has been adverted to by the Senator from Colorado [Mr. TELLER], that there are other things which will be affected by the very fact that these great tracts of land are bought up and cared for by the United States for the purpose of preserving the forests. They are not the prime purpose of the act; they are not the immediate effect of the act. They are simply incidental things which flow as a consequence from one main thing.

You can do no act in life, you can pass no statute that does not have collateral effects, sometimes good and sometimes evil, albeit its own purpose may be perfectly pure. This is inherent in the nature of all things mundane and of all things human. Things have a direct effect. Their collateral ones no human being can count, because they affect many other things cognate and many things even remote.

The primary object of this bill is to preserve our forests that we may preserve our water; and when gentlemen are asked how else "will you do it," they can suggest no other way, at least no other obvious way, and none that they would recommend.

For these reasons, sir, I expect to support this bill.

Mr. BRANDEGEE. Mr. President, I do not desire to make a speech. I want to have the bill passed. I simply ask the privilege of inserting in the RECORD the statement of Mr. Charles C. Goodrich, an experienced navigator of the Connecticut River, made before the House Committee on Agriculture.

The VICE-PRESIDENT. Without objection, permission is granted.

The matter referred to is as follows:

STATEMENT OF CHARLES C. GOODRICH, OF HARTFORD, CONN., GENERAL MANAGER OF THE HARTFORD AND NEW YORK TRANSPORTATION COMPANY.

Mr. GOODRICH. Two years ago I had occasion, by appointment of the governor, to come before this committee and say a few words in regard to the whole matter of the Appalachian and White Mountain forest reserves. This season I was again asked by the governor's executive secretary if I would come here. I wish to say but very little this year, and that to apply entirely to the effect of the cutting of the forests in the White Mountains upon the navigation in the Connecticut River. I would say that for thirty years I have been manager of some thirty-five United States vessels engaged in coastwise trade between the various ports upon the Connecticut River, and in this term I have had ample opportunity to realize the effect upon our river of the denuding of the forests in the White Mountains. I would say that, especially of late years and since the cutting has extended to the minor timber, the spruce of 6 or 8 and even 5 inches, which was formerly left to grow, is now being taken by the pulp mills. I have been in that vicinity for forty years, although only thirty years in this particular capacity, and from the beginning of my experience our floods have commenced about from the 1st to the 10th of April, and they came for the next two months pretty steadily, and for two months longer there was still a steady feed from those mountains. In the last twenty years the freshet has come fully one month earlier, the snows have started to melt fully one month earlier, the continuation has been more than one month longer, and the total supply of water has been reduced at least 50 per cent, coming rapidly in the spring, when it was of no use to the mill man or the man engaged in navigation, and escaping and going by without being made valuable in any way, and has been followed, at the present time, by an almost total lack of flow, beginning with about the 10th of May and extending through until the fall rains come again, nearly to the 1st of October.



In the lower river, speaking now of Hartford, and below that to the mouth of the river, there is about 1,000,000 tons of marine commerce, and with the aid of nature, so far as Long Island Sound is concerned, 15 miles away, and the aid of the Government to the extent of \$10,000 a year, devoted to the yearly removal of deposits that come from the north, the navigation has been steady and uninterrupted, and we have had that for quite a number of years. Not a trip has been lost by the daily steamers running from Hartford to New York; but, as I say, that has been made possible mainly by Government aid.

As to the effect upon the whole nation and its being more than a local question, I rather appear in the interests of navigation as a whole than as to any local matter. I would say that if at any time a cargo of lumber from Mobile or from Brunswick, Ga., or fertilizers from Georgia, or any cargo in the coastwise trade coming to that river, the very first thing you do is to call up and find out what depth of water you can actually get in the river. It will be from 3 to 5 feet, according to the varying degrees of water. We have from 15 to 30 or 40 feet in the spring, tapering off by May or June and until these alluvial deposits have been cut, it can be reduced to 9½ or 10 feet, and prices will go up correspondingly. In the last twenty years the bar at the mouth of the river, which now extends off to a distance of 3 miles offshore and into the 15-fathom line of water, and has extended to the seaward from 3 to 4 miles, to the same depth of water, has so confined the flow of the sound that the outer end of the bar has ceased to build, and it is adding constantly to the long sand shoal, now 10 miles to the west of the mouth and in mid sound.

Of course, gentlemen, I know that as long as rivers run these bars will build and they will go on building, as they will to a certain extent in the Connecticut River; with the wash of the unprotected mountains and the clearing away of these forests and the burning and denuding and washing, we are getting far more than our share of New Hampshire and Vermont and Massachusetts—more than we wish to have planted at that point, for it is certainly a source of very great danger and annoyance to us. [Applause.]

Mr. BRANDEGEE. I also ask permission to insert in the RECORD a section of the report of the committee as to the effect upon the stream flow of washing down silt from the hills and the cutting down of forests. I ask to have inserted such portions as I have marked in lead pencil.

The VICE-PRESIDENT. Without objection, permission is granted.

The matter referred to is as follows:

*Removal of forest has increased floods.*—The balance of conditions was not seriously disturbed until within the past few decades, during which the forest has been rapidly destroyed, not only in the valleys and foothills, but on the steep slopes of the high mountains. During this time, in the streams which take their rise in the Appalachians, there has been an enormous increase in the number and duration of floods. The increases are directly proportionate to the rate at which the forest has been removed. They are greatest in such streams as the Ohio, Cumberland, Wateree, and Santee, where the most timber has been removed, and least in the streams on the watersheds of which forest conditions have been least changed. Except in the change of forest conditions there have been no factors that could have intensified flood conditions. In the Ohio River, in seventy years, the number of floods at Wheeling has increased 62 per cent, and their aggregate duration 116 per cent. In the Cumberland River, at Burnside, Ky., the number of floods increased 330 per cent in the fifteen years between 1891 and 1905, and the duration in the same proportion. During the same period, in the Wateree River, at Camden, S. C., the number of floods increased 65 per cent, and the duration 82 per cent. In the Congaree River the increase during the same time has been 94 per cent in number and 113 per cent in duration. In the Savannah River, at Augusta, Ga., between the years 1876 and 1905, the increase in the number of floods has been 94 per cent, and in duration 266 per cent. Between 1891 and 1905 the Alabama River, at Selma, Ala., had an increase in number of floods of 83 per cent, and in duration of 31 per cent.

*Low-water conditions intensified.*—This great increase, both in number of floods and the period during which they lasted, has been accompanied by a corresponding decrease in low-water stage, as is shown by both actual measurements and common observation. As an instance, the Tennessee River, at Chattanooga, shows a low-water period of 499 days for the decade of 1895-1904, as against 399 days for the decade of 1875-1884.

How important is the effect of forest upon the dry season flow of streams is apparent from the following table, which gives during the last eight months of the driest year the flow in gallons per square mile of streams from similar watersheds in New Jersey, some forested, others barren.

Month.	Forested watershed.	Barren watershed.
April.....	597,000	631,000
May.....	297,000	145,000
June.....	272,000	139,000
July.....	207,000	22,000
August.....	140,000	22,000
September.....	139,000	23,000
October.....	129,000	22,000
November.....	127,000	23,000

If the nine months are divided into seasons of three months each, the previous figures expressed in percentages show, approximately, the flow as given below:

	Forested watershed.	Barren watershed.
	Per cent.	Per cent.
First three months.....	53	69
Second three months.....	25	20
Third three months.....	22	11

Throughout the Appalachian region it is common observation that the streams whose watersheds have been deforested carry less water at their low stages and are low through longer aggregate periods than when their watersheds were forested.

*Navigable streams filled with silt.*—The floods which result from barren watersheds in the Southern Appalachians and in the White Mountains are carrying down into the streams vast quantities of sand, silt, and gravel, thereby filling the channels and interfering with navigation. Natural conditions in both regions are such as to intensify erosion. Precipitation is heavy and at times torrential. Slopes are long and very steep. The soils, especially in the South, on account of their character, erode with intense rapidity. Testimony of local engineers, Government experts, and actual users of the rivers is available from many sources, and it is unanimous that extensive and ill-advised cutting of timber from the high watersheds results in scouring the soil from the bared slopes and in removing it to the lower stretches of the streams. Since all the rivers which drain the Southern Appalachian Mountains and the White Mountains are to some extent navigable, the direct relation between forests on the mountains and navigation in the rivers which flow from them is clear.

The Government has expended on the rivers that flow from the White Mountains over \$2,500,000. Over \$41,000,000 have been spent upon the rivers that flow from the Southern Appalachians, and because of the continued inrush of sand and silt from the denuded mountain watersheds they are less navigable now than ever before.

Mr. SUTHERLAND. I wish to call the attention of the Senator in charge of the bill to section 3, which provides:

SEC. 3. That no deed or other instrument of conveyance shall be accepted or approved by the Secretary of Agriculture under this act until the legislature of the State in which the land lies shall have consented to the acquisition of such land by the United States.

I call attention to the fact that there is no provision in that section for a cession of jurisdiction on the part of the State. Under the Constitution—

Mr. BRANDEGEE. If the Senator will allow me for a moment, whether the section requires it or not, the States have already ceded jurisdiction to the United States, and the Senator will find those acts of cession of jurisdiction in the hearings before the House Committee on Agriculture—every one of them. I will listen to the Senator, however, if he desires to proceed.

Mr. SUTHERLAND. I think the provision ought to go into the bill.

Mr. BRANDEGEE. I have no objection to its going into the bill.

Mr. SUTHERLAND. There is no reason why it should not.

Mr. BRANDEGEE. Will the Senator offer such an amendment?

Mr. SUTHERLAND. I will; but I want, first of all, to call attention to why I think it is necessary.

The Constitution gives Congress authority, among other things—

To exercise exclusive jurisdiction in all cases whatsoever over such district—

Describing it, and—

to exercise like authority over all places purchased by the consent of the legislature of the State of which the same shall be—

Now, I invite the Senator's particular attention to this—

for the erection of forts, magazines, arsenals, dockyards, and other needful buildings.

The property described in this bill does not come within any one of those descriptions. It is something entirely outside of that provision of the Constitution.

So my point is that this provision of the Constitution which gives Congress exclusive jurisdiction over property of that character when purchased with the consent of the State will not apply to this matter, but something more will be necessary, namely, cession of jurisdiction on the part of the State.

I think that has been held in two or three cases. It was held in effect in the Fort Leavenworth case; it was held in effect in the recent case decided by the district court in Kentucky, where property had been acquired for the purpose of making locks upon the banks of the stream.

So I offer the amendment I send to the desk, to come in at the end of the section.

The VICE-PRESIDENT. The Senator from Utah proposes an amendment, which will be stated.

The SECRETARY. It is proposed to add at the end of section 3 the following:

And has ceded jurisdiction to the United States over offenses committed therein in violation of the laws of the United States.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BRANDEGEE. I want to treat the Senator from Colorado [Mr. TELLER] fairly. He suggested to me that he would like to have the yeas and nays upon the passage of the bill. I do not care to call for them. I do not want to be accused by him of taking any unfair advantage of him, but he wanted to be recorded against the bill. I will state that if the Senate would be content to let it go that way, perhaps my statement to that effect would be satisfactory to him. However, he wanted to be recorded as voting against the bill.

Mr. TELLER entered the Chamber.

Mr. CULLOM. Here is the Senator from Colorado.

Mr. FULTON. Mr. President—

The VICE-PRESIDENT. The Senator from Colorado is present.

Mr. BRANDEGEE. The bill has been passed?

The VICE-PRESIDENT. The bill has been passed.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

Mr. TELLER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Illinois yield to the Senator from Colorado?

Mr. CULLOM. Yes; if the Senator wants the floor.

Mr. TELLER. I merely wish to say that I am against this bill, and, if a roll call had been had, I should have voted "nay."

Mr. BAILEY. Mr. President—

The VICE-PRESIDENT. Does the Senator from Illinois yield to the Senator from Texas?

Mr. CULLOM. I yield to the Senator.

Mr. BAILEY. I desire to say that I was called by some of my constituents from the Senate Chamber for the moment. Had I been here I should have felt very much inclined to demand a roll call on the bill, so that I might have recorded my vote against it. I do not do that, and I make this statement to go in the RECORD.

#### THE OMNIBUS CLAIMS BILL.

Mr. FULTON. I ask the Senator from Illinois to yield to me for a moment just to make a statement.

Mr. CULLOM. All right; I will yield to the Senator.

Mr. FULTON. Mr. President, I feel that I ought to make a statement in regard to House bill 21372, the omnibus claims bill. I had addressed the Chair for the purpose of moving to take up that bill.

I have no disposition to be insistent about the bill being taken up, but I am chairman of the Committee on Claims, from which the bill has come. A great many States are deeply interested in the items. I feel it my duty to make a reasonable effort to bring the bill before the Senate, but if there is no disposition to take it up, we are now late in the session, and so far as I am concerned, I will drop the matter and not annoy the Senate by a motion to take it up.

Mr. McCREARY. Mr. President—

The VICE-PRESIDENT. Does the Senator from Illinois yield to the Senator from Kentucky?

Mr. CULLOM. I yield to the Senator.

Mr. McCREARY. Mr. President, I wish to say that it is only a quarter after 3, and the omnibus claims bill is a very important measure. It contains claims of citizens of various States—North, South, East, and West. We could pass the bill in an hour. I do not think any Senator desires to offer an amendment to it. The bill has passed the House, and it is a very important bill. Many of the claims are old, and those who hold them have been waiting anxiously for some time to get their money. I would be glad if my distinguished friend from Illinois would be willing to withdraw his motion that we may take up that bill.

Mr. CULLOM. I must insist on my motion. I yield for a moment to the Senator from Idaho [Mr. BORAH].

#### REID V. THE UNITED STATES.

Mr. BORAH. I present the opinion by Judge Hough, in the United States district court for the southern district of New York, in the case of Oscar W. Reid v. The United States. I move that 1,000 copies be printed as a document. It bears upon the Brownsville matter.

The motion was agreed to.

#### EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 3 o'clock and 25 minutes p. m.) the Senate adjourned until Monday, May 18, 1908, at 12 o'clock meridian.

#### NOMINATIONS.

*Executive nominations received by the Senate, May 16, 1908.*

##### COLLECTORS OF CUSTOMS.

Robert S. Burlingame, of Rhode Island, to be collector of customs for the district of Newport, in the State of Rhode Island, in place of Clarence A. Hammett, deceased.

Cornelius O'Keefe, of Arizona, to be collector of customs for the district of Arizona, in the Territory of Arizona, in place of Myron H. McCord, deceased.

##### SOLICITOR OF INTERNAL REVENUE.

Fletcher Maddox, of Montana, to be solicitor of internal revenue, in place of Arthur B. Hayes, resigned.

##### PROMOTIONS IN THE ARMY.

###### INFANTRY ARM.

Capt. Daniel B. Devore, Twenty-third Infantry, to be major from May 15, 1908, vice Travis, Eleventh Infantry, retired from active service.

###### CAVALRY ARM.

###### To be first lieutenants.

Second Lieut. Robert W. Lesher, Third Cavalry, from April 14, 1908, vice Moore, Second Cavalry, promoted.

Second Lieut. George Grunert, Eleventh Cavalry, from April 16, 1908, vice Raysor, Fifth Cavalry, promoted.

Second Lieut. William R. Pope, Second Cavalry, from April 30, 1908, vice Fonda, Tenth Cavalry, detailed in the Signal Corps.

Second Lieut. Olney Place, Sixth Cavalry, from May 6, 1908, vice Read, Sixth Cavalry, promoted.

Second Lieut. Thomas H. Cunningham, Eighth Cavalry, from May 10, 1908, vice Schultz, Fourteenth Cavalry, promoted.

Capt. Edward D. Taussig to be a rear-admiral in the Navy from the 15th day of May, 1908, vice Rear-Admiral George A. Bicknell, retired.

Ensign George J. Meyers to be a lieutenant (junior grade) in the Navy from the 2d day of May, 1907, upon the completion of three years' service.

Lieut. (Junior Grade) George J. Meyers to be a lieutenant in the Navy from the 2d day of May, 1907, to fill a vacancy existing in that grade on that date.

Asst. Paymaster William L. F. Simonpietri to be a passed assistant paymaster in the Navy from the 1st day of October, 1907, vice P. A. Paymaster Arthur S. Peters, resigned, and to take rank from the 3d day of August, 1907.

Paymaster Francis J. Painter, who was confirmed by the Senate on the 2d day of March, 1907, for advancement from the grade of passed assistant paymaster with the rank of lieutenant to the grade of paymaster with the rank of lieutenant, in accordance with the provisions of an act of Congress approved June 29, 1906, to be a paymaster with the rank of lieutenant-commander on the retired list of the Navy from the date of his advancement, in accordance with an opinion of the Attorney-General dated January 13, 1908.

Midshipman Hugh K. Aiken to be an ensign in the Navy from the 13th day of May, 1908, to fill a vacancy existing in that grade on that date.

Gunner Herbert A. Nevins to be a chief gunner in the Navy, to rank with, but after, ensign, from the 15th day of May, 1907, upon the completion of six years' service, in accordance with the provisions of an act of Congress approved March 3, 1899, as amended by the act of April 27, 1904.

Brig. Gen. George F. Elliott, United States Marine Corps, to be Major-General Commandant of the Marine Corps, from the 13th day of May, 1908.

Capt. David D. Porter to be assistant adjutant and inspector in the United States Marine Corps, with the rank of major, from the 14th day of May, 1908, to fill a vacancy existing on that date.

Capt. Harold C. Reisinger to be assistant paymaster in the United States Marine Corps, with the rank of captain, from the 14th day of May, 1908, to fill a vacancy existing on that date.

First Lieut. Davis B. Wills to be assistant paymaster in the United States Marine Corps, with the rank of captain, from the 14th day of May, 1908, to fill a vacancy existing on that date.

The following-named officers of the United States Marine Corps to be assistant quartermasters in the Marine Corps, with the rank of captain, from the 14th day of May, 1908, to fill vacancies existing on that date:

First Lieut. Frank Halford,  
First Lieut. Walter E. Noa,  
First Lieut. Seth Williams,  
First Lieut. Edward W. Banker, and  
First Lieut. Charles R. Sanderson.

##### POSTMASTERS.

###### IOWA.

Hiram E. Morrison to be postmaster at Seymour, Wayne County, Iowa, in place of James H. Morrison, deceased.

###### KENTUCKY.

George W. Hutcheson to be postmaster at Lawrenceburg, Anderson County, Ky., in place of George W. Hutcheson. Incumbent's commission expired December 17, 1907.

###### NEW MEXICO.

James T. Fay to be postmaster at Farmington, San Juan County, N. Mex., in place of James A. Duff, resigned.



## PENNSYLVANIA.

Delos A. Wright to be postmaster at Union City, Erie County, Pa., in place of Delos A. Wright. Incumbent's commission expired April 27, 1908.

## RHODE ISLAND.

William F. Caswell to be postmaster at Jamestown, Newport County, R. I., in place of John B. Landers, deceased.

## VERMONT.

Heman I. Spafford to be postmaster at North Bennington, Bennington County, Vt., in place of Walter G. Shaw. Incumbent's commission expired April 5, 1908.

## WISCONSIN.

George E. Bogrand to be postmaster at Wausaukee, Marinette County, Wis., in place of Henry G. Laun. Incumbent's commission expired January 14, 1908.

## CONFIRMATIONS.

*Executive nominations confirmed by the Senate May 16, 1908.*

## DISTRICT JUDGE.

Oscar R. Hundley, of Alabama, to be United States district judge for the northern district of Alabama, who was appointed during the last recess of the Senate, as provided for by the act approved February 25, 1907, entitled "An act providing for a United States judge for the northern judicial district of Alabama."

## PROMOTIONS IN THE NAVY.

Gunners Thomas J. Hurd and Joseph Mitchell to be chief gunners in the Navy from the 11th day of March, 1908, upon the completion of six years' service in present grade.

## PROMOTIONS IN THE REVENUE-CUTTER SERVICE.

First Lieut. Frederick Jules Haake to be captain in the Revenue-Cutter Service of the United States, to rank as such from January 22, 1908.

First Lieut. Francis Saltus Van Boskerck to be captain in the Revenue-Cutter Service of the United States, to rank as such from April 22, 1908.

First Lieut. George Creighton Carmine to be captain in the Revenue-Cutter Service of the United States, to rank as such from January 1, 1908.

First Lieut. Detlef Frederick Argentino de Otte to be captain in the Revenue-Cutter Service of the United States, to rank as such from April 7, 1908.

First Lieut. George Metcalf Daniels to be captain in the Revenue-Cutter Service of the United States, to rank as such from March 9, 1908.

## POSTMASTERS.

## NORTH CAROLINA.

Frank B. Benbow to be postmaster at Franklin, Macon County, N. C.

Samuel M. Jones to be postmaster at Sandford, Moore County, N. C.

Mattie S. Martin to be postmaster at Leakesville, Rockingham County, N. C.

Richard M. Norment to be postmaster at Lumberton, Robeson County, N. C.

## HOUSE OF REPRESENTATIVES.

SATURDAY, May 16, 1908.

[Continuation of the legislative day of Tuesday, May 12, 1908.]

The recess having expired, at 11 o'clock and 30 minutes a. m. the House was called to order by the Speaker.

## SUNDRY CIVIL APPROPRIATION BILL.

The Speaker laid before the House, from the Speaker's table, the sundry civil appropriation bill, with Senate amendments. The Senate amendments were read.

The SPEAKER. The question is, Will the House disagree to the Senate amendments en bloc, and ask a conference with the Senate?

Mr. WILLIAMS. Mr. Speaker, I ask for the yeas and nays. The yeas and nays were ordered.

The question was taken, and there were—yeas 240, nays 7, answered "present" 8, not voting 132, as follows:

## YEAS—240.

Acheson	Andrus	Bede	Bradley
Adair	Ansherry	Beil, Ga.	Brantley
Adamson	Ashbrook	Bennett, Ky.	Brodhead
Alken	Barclay	Bonyng	Brownlow
Alexander, Mo.	Bartholdt	Booher	Brown
Alexander, N. Y.	Bates	Bowers	Burgess
Allen	Beall, Tex.	Boyd	Burleigh

Burleson  
Burnett  
Burton, Ohio  
Candler  
Capron  
Carter  
Cary  
Chapman  
Clark, Mo.  
Clayton  
Cockran  
Cocks, N. Y.  
Cole  
Conner  
Cook, Pa.  
Cooper, Pa.  
Cooper, Tex.  
Cooper, Wis.  
Coudrey  
Cox, Ind.  
Craig  
Crawford  
Crumpacker  
Currier  
Dalzell  
Darragh  
Davidson  
Davis, Minn.  
Dawson  
De Armond  
Denver  
Diekema  
Dixon  
Douglas  
Draper  
Driscoll  
Durey  
Elerbe  
Englebright  
Esch  
Fairchild  
Favrot  
Ferris  
Finley  
Fitzgerald  
Floyd  
Focht  
Fordney  
Foster, Ill.  
Foster, Vt.  
French  
Fuller  
Fulton

Gaines, Tenn.  
Gardner, Mich.  
Gardner, N. J.  
Garner  
Garrett  
Gilbams  
Gillett  
Glass  
Godwin  
Goldfogle  
Gordon  
Goulden  
Graft  
Graham  
Granger  
Hackney  
Hale  
Hall  
Hamilton, Iowa  
Hamilton, Mich.  
Hamlin  
Hammond  
Hardy  
Harrison  
Haskins  
Hawley  
Hay  
Hayes  
Hedin  
Helm  
Henry, Conn.  
Henry, Tex.  
Hepburn  
Higgins  
Hill, Conn.  
Hill, Miss.  
Hinshaw  
Holliday  
Houston  
Howell, N. J.  
Howell, Utah  
Hubbard, Iowa  
Hubbard, W. Va.  
Hughes, N. J.  
Hull, Tenn.  
James, Addison D.  
Jenkins  
Johnson, Ky.  
Johnson, S. C.  
Kahn  
Kelfer  
Kelher  
Kennedy, Iowa

Kennedy, Ohio  
Kimball  
Kinkaid  
Kitchin, Claude  
Knapp  
Knowland  
Kilstermann  
Lafean  
Lamb  
Langley  
Lanin  
Lassiter  
Lawrence  
Leake  
Lindbergh  
Lloyd  
Longworth  
Loud  
Loudenslager  
Lovering  
McCall  
McDermott  
McKinlay, Cal.  
McKinley, Ill.  
McKinney  
McLain  
McLaughlin, Mich.  
McMorran  
Macon  
Madden  
Mann  
Maynard  
Moon, Tenn.  
Moore, Tex.  
Morse  
Mouser  
Murdock  
Needham  
Nelson  
Nicholls  
Norris  
Nye  
O'Connell  
Overstreet  
Padgett  
Parker, N. J.  
Parsons  
Patterson  
Payne  
Pearre  
Perkins  
Pollard

Pujo  
Raine  
Rauch  
Reeder  
Richardson  
Robinson  
Rodenberg  
Rothermel  
Rucker  
Russell, Mo.  
Russell, Tex.  
Ryan  
Sabath  
Saunders  
Scott  
Shackelford  
Sherley  
Sherwood  
Sims  
Slayden  
Slomp  
Smith, Cal.  
Smith, Iowa  
Smith, Mo.  
Snapp  
Sparkman  
Sperry  
Spight  
Stafford  
Steenerson  
Sterling  
Sturgiss  
Suloway  
Sulzer  
Tawney  
Taylor, Ohio  
Thistlewood  
Tirrell  
Tou Velle  
Townsend  
Underwood  
Volstead  
Vreeland  
Waldo  
Wanger  
Watkins  
Watson  
Wheeler  
Williams  
Wilson, Ill.  
Wood  
Woodyard  
Young

## NAYS—7.

Bartlett, Nev.  
Cushman

Davenport  
Hitchcock

Humphrey, Wash. Lee  
Jones, Wash.

## ANSWERED "PRESENT"—8.

Bennet, N. Y.  
Brundidge

Butler  
Flood

Haggott  
Legare

## NOT VOTING—132.

Ames  
Anthony  
Bannon  
Barchfield  
Bartlett, Ga.  
Beale, Pa.  
Bingham  
Birdsall  
Boutell  
Broussard  
Burke  
Burton, Del.  
Byrd  
Calder  
Calderhead  
Caldwell  
Campbell  
Carlin  
Caulfield  
Chaney  
Clark, Fla.  
Cook, Colo.  
Cousins  
Cravens  
Davey, La.  
Dawes  
Denby  
Dunwell  
Dwight  
Edwards, Ga.  
Edwards, Ky.  
Ellis, Mo.  
Ellis, Oreg.

Fassett  
Fornes  
Foss  
Foster, Ind.  
Foulkrod  
Fowler  
Gaines, W. Va.  
Gardner, Mass.  
Gill  
Gillespie  
Goebel  
Greene  
Gregg  
Griggs  
Gronna  
Hackett  
Hamill  
Harding  
Hardwick  
Haugen  
Hobson  
Howard  
Howland  
Huff  
Hughes, W. Va.  
Hull, Iowa  
Humphreys, Miss.  
Jackson  
James, Ollie M.  
Jones, Va.  
Kipp  
Kitchin, Wm. W.  
Knopf

Lamar, Fla.  
Lamar, Mo.  
Landis  
Law  
Lenahan  
Lever  
Lewis  
Lilley  
Lindsay  
Littlefield  
Livingston  
Lorimer  
McCreary  
McGavin  
McGuire  
McHenry  
McMillan  
Madison  
Malby  
Marshall  
Miller  
Mondell  
Moon, Pa.  
Moore, Pa.  
Mudd  
Murphy  
Olcott  
Olmsted  
Parker, S. Dak.  
Peters  
Porter  
Pou

Lowden  
Small  
Powers  
Pratt  
Pray  
Prince  
Randell, Tex.  
Randsell, La.  
Reid  
Reynolds  
Rhinoek  
Riordan  
Roberts  
Sheppard  
Sherman  
Smith, Mich.  
Smith, Tex.  
Southwick  
Stanley  
Stephens, Tex.  
Stevens, Minn.  
Talbot  
Taylor, Ala.  
Thomas, N. C.  
Thomas, Ohio  
Wallace  
Washburn  
Webb  
Weeks  
Weems  
Weisse  
Wiley  
Willett  
Wilson, Pa.  
Wolf

So the motion was agreed to.

The Clerk announced the following pairs:

For the session:

Mr. SHERMAN with Mr. RIORDAN.

Mr. BUTLER with Mr. BARTLETT of Georgia.

Mr. COUSINS with Mr. FLOOD.

Mr. LORIMER with Mr. HUMPHREYS of Mississippi.

Mr. WATSON with Mr. SHEPPARD.

Until further notice:

Mr. GRONNA with Mr. KIPP.

Mr. ELLIS of Missouri with Mr. HOWARD.

Mr. BANNON with Mr. BYRD.

Mr. HAUGEN with Mr. WALLACE.

Mr. STEVENS of Minnesota with Mr. WOLF.

Mr. SOUTHWICK with Mr. WILSON of Pennsylvania.  
 Mr. SMITH of Michigan with Mr. WILEY.  
 Mr. OLMSTED with Mr. WEISSE.  
 Mr. OLCOTT with Mr. WEBB.  
 Mr. MOORE of Pennsylvania with Mr. THOMAS of North Carolina.

Mr. MOON of Pennsylvania with Mr. TAYLOR of Alabama.  
 Mr. MONDELL with Mr. STEPHENS of Texas.  
 Mr. MILLER with Mr. STANLEY.  
 Mr. MALBY with Mr. SMITH of Texas.  
 Mr. McMILLAN with Mr. SMALL.  
 Mr. McLACHLAN of California with Mr. RHINOCK.  
 Mr. FOSTER of Indiana with Mr. REID.  
 Mr. LANDIS with Mr. RANDELL of Louisiana.  
 Mr. HULL of Iowa with Mr. RANDELL of Texas.  
 Mr. HUGHES of West Virginia with Mr. POUL.  
 Mr. GREENE with Mr. MCHEENY.  
 Mr. GOEBEL with Mr. LINDSAY.  
 Mr. FOULKROD with Mr. LEWIS.  
 Mr. FOSS with Mr. LEVER.  
 Mr. FASSETT with Mr. LENAHAN.  
 Mr. ELLIS of Oregon with Mr. LAMAR of Florida.  
 Mr. DWIGHT with Mr. JONES of Virginia.  
 Mr. DUNWELL with Mr. OLLIE M. JAMES.  
 Mr. CHANEY with Mr. HACKETT.  
 Mr. CAULFIELD with Mr. GREGG.  
 Mr. CALDERHEAD with Mr. GILLESPIE.  
 Mr. CALDER with Mr. GILL.  
 Mr. BENNET of New York with Mr. FORNES.  
 Mr. BARCHFELD with Mr. CRAVENS.  
 Mr. ANTHONY with Mr. CLARK of Florida.  
 Mr. AMES with Mr. CLARK.  
 Mr. KNOPF with Mr. CALDWELL.  
 Mr. BIRDSALL with Mr. LAMAR of Missouri.  
 Mr. BOUTELL with Mr. GRIGGS.  
 Mr. MCCREARY with Mr. EDWARDS of Georgia.  
 Mr. ROBERTS with Mr. BROUSSARD.  
 Mr. THOMAS of Ohio with Mr. HOBSON.  
 Mr. HARDING with Mr. PETERS.  
 Mr. MARSHALL with Mr. MURPHY.  
 Mr. DAWES with Mr. HARDWICK.  
 Mr. BINGHAM with Mr. LIVINGSTON.  
 Mr. LOWDEN with Mr. LEGARE.  
 Mr. EDWARDS of Kentucky with Mr. WILLETT.  
 Mr. BURKE with Mr. DAVEY of Louisiana.  
 Mr. HAGGOTT with Mr. WILLIAM W. KITCHIN.  
 Mr. POWERS with Mr. PRATT.  
 Mr. MUDD with Mr. TALBOTT.

The result of the vote was announced as above recorded.  
 The Chair announced the following conferees on the part of the House: Mr. TAWNEY, Mr. SMITH of Iowa, Mr. FITZGERALD.

#### GENERAL DEFICIENCY APPROPRIATION BILL.

Mr. TAWNEY, by direction of the Committee on Appropriations, reported the bill (H. R. 21946) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1908, and for prior years, and for other purposes, which was read a first and second time and, with the accompanying report, referred to the Committee of the Whole House on the state of the Union and ordered printed.

Mr. FITZGERALD. Mr. Speaker, I reserve all points of order.

The SPEAKER. The gentleman from New York reserves all points of order.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. CROCKETT, its reading clerk, announced that the Senate had passed with amendments bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 16743. An act for the removal of the restrictions on alienation of lands of allottees of the Quapaw Agency, Okla., and the sale of all tribal lands, school, agency, or other buildings on any of the reservations within the jurisdiction of such agency, and for other purposes.

The message also announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House of Representatives was requested:

S. 142. An act providing for the deposit of a model of any vessel of war of the United States Navy bearing the name of a State of the United States in the capitol building of said State;

S. 157. An act providing for the erection of a public building in the city of Hinton, W. Va.;

S. 608. An act relating to proof of signatures and handwriting;

S. 1526. An act to correct the military record of Edward T. Lewis;

S. 1577. An act for the relief of Sergt. James W. Kingon;

S. 1750. An act to reimburse Ella M. Collins, late postmaster at Goldfield, Nev., for money expended for clerical assistance and supplies;

S. 2487. An act to amend section 5278 of the Revised Statutes;

S. 2963. An act for the survey and allotment of lands now embraced within the limits of the Crow Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment;

S. 3723. An act for the relief of the Farmers and Merchants' Bank of Mandan, N. Dak.;

S. 3764. An act to apply a portion of the sales of public lands to the endowment of schools or department of mines and mining, and to regulate the expenditure thereof;

S. 6246. An act authorizing the Secretary of the Interior to set aside a certain tract of land for town-site purposes;

S. 6373. An act waiving the statute of limitations as to the claim of the Nestler Brewing Company, and authorizing the Commissioner of Internal Revenue to adjudicate the same;

S. 6506. An act to amend an act entitled "An act to establish a Code of Law for the District of Columbia";

S. 6523. An act granting a patent for land to "The Sisters of the Blessed Sacrament for Indians and Colored People," a charitable corporation organized under the laws of the State of Pennsylvania;

S. 6529. An act for the relief of Mary S. Fergusson;

S. 6544. An act to remove the charge of desertion from the record of William H. Atkins;

S. 6640. An act authorizing appropriations for South Pass of the Mississippi River, or surveys thereon, to be used in dredging said river above the pass to secure 35 feet and suitable width;

S. 6641. An act to incorporate the American National Institute (Prix de Paris) at Paris, France;

S. 6665. An act for the relief of Charles H. Dickson;

S. 6682. An act to reimburse W. B. Graham, late postmaster at Ely, Nev., for money expended for clerical assistance;

S. 6764. An act authorizing the Secretary of the Treasury to make an examination of certain claims of the State of Missouri;

S. 6775. An act construing certain provisions of an act of Congress entitled "An act to divide a portion of the reservation of the Sioux Nation of Indians in Dakota into separate reservations, and to secure the relinquishment of the Indian title to the remainder, and for other purposes," approved March 2, 1889, relating to Indian allotments, and for other purposes;

S. 6783. An act to establish a fish-cultural station in the State of Nevada;

S. 6788. An act to amend sections 2586 and 2587 of the Revised Statutes of the United States, as amended by the acts of April 25, 1882, and August 28, 1890, relating to collection districts in Oregon;

S. 6923. An act for the relief of John M. Kelly;

S. 6930. An act to pay to certain Cherokee citizens moneys to which they have been found entitled by the Supreme Court;

S. 3808. An act to refund certain excess duties paid upon importations of absinthe and kirschwasser from Switzerland between June 1, 1898, and December 5, 1898;

S. 4288. An act to empower the Court of Claims to hear and determine the claims of Robert V. Belt and Joseph P. Mullen for services and expenses for the Choctaw and Chickasaw freedmen;

S. 4691. An act to provide for the purchase of a site and the erection of a public building thereon at Marshall, in the State of Missouri;

S. 4726. An act for the relief of certain purchasers of lots in the Fort Crawford military tract at Prairie du Chien, State of Wisconsin;

S. 7023. An act to amend section 3 of the act of August 18, 1894, entitled "An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," so as to provide safeguards to life on boats and scows;

S. 7110. An act to aid in building a memorial to Abraham Lincoln on the site of the Lincoln birthplace in Kentucky;

S. 5163. An act to authorize the Secretary of the Interior to segregate for town sites certain lands belonging to the Chickasaw tribes, and for other purposes;

S. 5252. An act to provide for the payment of certain moneys advanced by the States of Virginia and Maryland to the United States Government to be applied toward erecting public buildings for the Federal Government in the District of Columbia;



S. 5648. An act to establish the Glacier National Park west of the summit of the Rocky Mountains and south of the international boundary line in Montana, and for other purposes;

S. 5788. An act for the relief of the estate of Julius Jacobs;

S. 5905. An act for the relief of the executors of the estate of Harold Brown, deceased;

S. 5944. An act for the relief of John F. Wingfield;

S. 5997. An act for the relief of Paul Butler;

S. 6101. An act to promote the efficiency of the Public Health and Marine-Hospital Service;

S. 6102. An act to further protect the public health, and imposing additional duties upon the Public Health and Marine-Hospital Service;

S. 6161. An act for the relief of Rufus Neal;

S. 6242. An act for the establishment of a probation and parole system for the District of Columbia;

S. R. 67. Joint resolution empowering the Court of Claims to ascertain the amount of the "civilization fund" paid by the Osages and applied to the benefit of other Indians, and for other purposes;

S. R. 87. Joint resolution to amend an act entitled "An act to authorize the cutting of timber, the manufacture and sale of lumber, and the preservation of the forests on the Menominee Indian Reservation, in the State of Wisconsin," approved March 28, 1908; and

S. R. 90. Joint resolution to amend an act authorizing the construction of bridges across navigable waters, etc.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 4809) to authorize the construction of a bridge across the Merrimac River at Syngs Island, Massachusetts.

#### COMPENSATING GOVERNMENT EMPLOYEES FOR INJURIES SUSTAINED IN EMPLOYMENT.

Mr. ALEXANDER of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 21844) granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment, as amended, which I send to the desk and ask to have read.

The Clerk read as follows:

*Be it enacted, etc.*, That when, after the passage of this act, any person employed by the United States as an artisan or laborer in any of its manufacturing establishments, arsenals, or navy-yards, or in the construction of river and harbor work or the management and control of the same, or in hazardous employment under the Isthmian Canal Commission, is injured in the course of such employment, he shall be entitled to receive for one year thereafter, unless sooner able to resume work, the same pay as if he continued to be employed, such payment to be made under such regulations as the Secretary of Commerce and Labor may prescribe: *Provided*, That no compensation shall be paid under this act where the injury is due to the negligence or misconduct of the employee injured. All questions of negligence or misconduct shall be determined by the Secretary of Commerce and Labor.

SEC. 2. That if any artisan or laborer so employed shall die during the said year by reason of such injury received in the course of such employment, leaving a widow, or a child or children under 16 years of age, or a dependent parent, such widow and child or children and dependent parent shall be entitled to receive, in equal portions, under such regulations as the Secretary of Commerce and Labor may prescribe, the same amount, for the remainder of the said year, that the husband, or father, or son would be entitled to receive as pay if he were alive and continued to be employed: *Provided*, That if the widow shall die at any time during the said year her portion of said amount shall be added to the amount to be paid to the remaining beneficiaries under the provisions of this section, if there be any; and if any child shall arrive at the age of 16 years during the said year, the portion of such child shall cease to be paid to such child from the date on which such age shall be attained, but shall be added to the amount to be paid to the remaining beneficiaries, if there be any.

SEC. 3. That whenever an accident occurs to any employee embraced within the terms of the first section of this act, and which results in death or a probable incapacity for work, it shall be the duty of the official superior of such employee to at once report such accident to the head of his bureau or independent office, and his report shall be immediately communicated through regular official channels to the Secretary of Commerce and Labor. Such report shall state, first, the origin and nature of the accident and the probable duration of the injury resulting therefrom; second, whether the accident arose out of or in the course of the injured person's employment; third, whether the accident was due to negligence or misconduct on the part of the employee injured; fourth, any other matters required by such rules and regulations as the Secretary of Commerce and Labor may prescribe. The head of each Department or independent office shall have power, however, to charge a special official with the duty of making such reports.

SEC. 4. That in the case of any accident which shall result in death, the persons entitled to compensation under this act or their legal representatives shall, within ninety days after such death, file with the Secretary of Commerce and Labor an affidavit setting forth their relationship to the deceased and the ground of their claim for compensation under the provisions of this act. This shall be accompanied by the certificate of the attending physician setting forth the fact and cause of death, or the nonproduction of the certificate satisfactorily accounted for. In the case of incapacity for work lasting more than thirty days, the injured party or his legal representatives desiring to take the benefit of this act shall, within a reasonable period after the expiration of such time, file with his official superior, to be forwarded through regular official channels to the Secretary of Commerce and Labor, an affidavit setting forth the grounds of his claim for

compensation, to be accompanied by a certificate of his attending physician as to the cause and nature of the injury and probable duration of the incapacity, or the nonproduction of the certificate satisfactorily accounted for. If the Secretary of Commerce and Labor shall find from the report and affidavit or other evidence produced by the claimant or his legal representatives, or from such additional investigation as the Secretary of Commerce and Labor may direct, that a claim for compensation is established under this act, the compensation to be paid shall be determined as provided under this act and approved for payment by the Secretary of Commerce and Labor.

SEC. 5. That the employee shall, whenever and as often as required by the Secretary of Commerce and Labor, submit himself to medical examination, to be provided and paid for under the direction of the Secretary, and if he refuses to submit to or obstructs such examination his right to compensation shall be lost for the period covered by the continuance of such refusal or obstruction.

SEC. 6. That to seek to obtain by fraudulent means or to accept benefits under this act to which the person is not entitled shall be deemed a misdemeanor on his part and punishable by a fine of not more than \$1,000 or by imprisonment for not more than two years, or both.

SEC. 7. That payments under this act are only to be made to the beneficiaries or their legal representatives other than assignees, and shall not be subject to the claims of creditors.

SEC. 8. That the United States shall not exempt itself from liability under this act by any contract, agreement, rule, or regulation, and any such contract, agreement, rule, or regulation shall be pro tanto void.

SEC. 9. That this act shall only take effect as to the right to receive compensation for any damages from accidents as to those occurring on and after July 1, 1908.

SEC. 10. That all acts or parts of acts in conflict herewith or providing a different scale of compensation or otherwise regulating its payment are hereby repealed.

Mr. CLAYTON. Mr. Speaker, I demand a second.

The SPEAKER. Under the rule, a second is ordered. The gentleman from New York is entitled to twenty minutes and the gentleman from Alabama to twenty minutes.

Mr. ALEXANDER of New York. Mr. Speaker, I will ask the gentleman from Alabama how much time he wants.

Mr. CLAYTON. I have been asked by several gentlemen on this side of the House for time. I suppose I shall want all of the twenty minutes.

Mr. ALEXANDER of New York. Mr. Speaker, this bill practically covers all Government employees engaged in hazardous occupations.

Mr. SHERLEY. Mr. Speaker, if the gentleman will permit, I would like to state that this is an important bill, and I would ask unanimous consent that there be forty minutes' debate on a side.

Mr. ALEXANDER of New York. Mr. Speaker, I will say to the gentleman from Kentucky that I can yield him some time, if he can not get it from the gentleman from Alabama [Mr. CLAYTON].

Mr. SHERLEY. I have no desire to ask time for myself, but I assume that the House would want more time in which to debate the matter.

Mr. ALEXANDER of New York. I will say to the gentleman from Kentucky that I shall ask unanimous consent to extend my remarks, and then parcel out the balance of the time.

Mr. WILLIAMS. To that I shall object.

Mr. ALEXANDER of New York. I ask, Mr. Speaker, that all Members be allowed to extend their remarks in the RECORD on this bill.

Mr. WILLIAMS. Mr. Speaker, to that request I make objection.

The SPEAKER. The gentleman from Mississippi objects.

Mr. WILLIAMS. I have no objection to the extension of debate on the floor, but I shall object to printing and extending in the RECORD. There has been too much abuse of that.

Mr. ALEXANDER of New York. As I was saying, Mr. Speaker, the purpose of this bill is to compensate Government employees engaged in hazardous occupations. Such employment is practically confined to arsenals, navy-yards, manufacturing establishments (such as armories, clothing depots, shipyards, proving grounds, powder factories, and so forth), to construction of river and harbor work, and to work upon the Isthmian Canal. The bill provides that the wages of such an employee who is injured in the course of such employment, without contributory negligence or misconduct, shall be continued for one year unless he is sooner able to resume work. If such an one is killed, or subsequently dies during the year, an amount equal to a year's wages or the remainder thereof is paid in equal portions to his widow, children under 16 years of age, and dependent parent, or to the survivor or survivors.

All payments are made under the direction of the Secretary of Commerce and Labor, who is authorized to pass upon questions of negligence and misconduct and to make such rules and regulations as may be necessary to safeguard the interests of the Government and of the beneficiaries. From his decision no appeal is allowed. Sections 3 to 9, inclusive, make ample provision for the protection of the Government, requiring notice of accident, investigations, medical examinations from time to time, and so forth. Section 10 repeals all acts in conflict.

The principle of this measure is not new to our Government. For five years railway postal clerks have been thus compensated, and since May 4, 1882, members of the Life-Saving Service have enjoyed similar benefits. In case of injury a postal clerk is paid his wages for one year, unless sooner able to resume work, ranging from \$800 to \$1,600. If he is killed or dies within one year, his family receives a lump sum of \$1,000. A surfman in the Life-Saving Service, if injured, may receive his wages for two years, unless sooner able to resume work, ranging from \$650 to \$1,560 for the two years. If killed, his family receives a like amount. Under the provisions of this bill a Government artisan or laborer, if injured, receives one year's wages, unless sooner able to resume work, ranging from \$300 (boys) to \$1,600 (foremen and experts), being an average of about \$800. If killed, his family receives a like amount.

There is insufficient data as to the number and character of accidents occurring to Government employees upon which to base an accurate estimate of the cost under this bill. In the railway mail service there are 14,347 postal clerks, and last year it cost the Government \$98,143.95 because of accidents. The Life-Saving Service employs 1,898 surfmen, and the Government during the last year paid for accidents and deaths \$41,270.51. This amount also includes sums paid for sickness contracted in the service.

There are approximately 6,600 artisans and laborers employed in arsenals, armories, and other manufacturing establishments of the War Department, and during the past ten years 8 were killed and 41 more or less seriously injured. The average absence from work because of these injuries was about two and one-half months. Under this bill the Government would have paid during the ten years a total of about \$20,000, or an average of \$2,000 a year. It ought to be added that the fewness of the accidents arising in the workshops of the War Department is largely due to the excellent condition of the machinery and the discipline exercised by the officers in charge.

The thirty-one navy-yards, naval stations, training stations, and naval magazines under the Navy Department employ approximately 25,000 men, but no statistics are available showing the number of accidents. Under the Isthmian Canal Commission approximately 11,000 men are engaged in hazardous occupations, their wages ranging from \$500 (unskilled laborers) to \$2,200 (locomotive engineers). During the calendar year 1907 there were 142 accidents resulting in death and approximately 1,300 treated in the hospitals. As no statistics are available showing the wages received by those killed or injured, no estimate can be made of the probable cost of compensation under this bill. The number of injured in proportion to those employed is very large, although it is likely that many accidents were slight and many due to the contributory negligence of the employees.

The Government in its river and harbor work employs approximately 12,800 artisans and laborers, their wages ranging from \$400 to \$3,600, with an approximate average of \$1,200. The perfect machinery and the discipline exercised over the employees have resulted in a very few accidents, 75 approximately having occurred since and including the year 1894. Of those injured only 2 were killed and 1 died.

The bill covers approximately 55,400 employees out of a total of 337,751 connected with the classified and unclassified civil service of the United States. If to this amount be added the postal clerks and members of the Life-Saving Service, the aggregate who may be cared for, if injured, will be increased to 71,600.

This measure is not as comprehensive or as liberal as many desire. Bills have been introduced extending relief to all employees of the Government. Some of these bills exclude negligence; others allow actions to be brought in Federal courts, with and without limitation as to the amount recoverable; others, following the rule of compensation adopted in this measure, double and treble the amount to be paid in case of injury or death. Nevertheless, it has seemed wise to the committee to confine compensation so far as possible to hazardous occupations, and to adhere not only to the system already adopted by the Treasury and Post-Office Departments, but to dispense relatively about the same amount of relief.

This plan, uniformly advocated by such employees of the Government as appeared before the committee, seems to be much more satisfactory because it gives food to the family at a time when the employee can not earn wages. Indeed, a strong feeling was evidenced at the hearings that some less expensive system of compensating accidents should be adopted than the lawsuit, which involves delay, produces uncertainty, withholds money when most needed, and works other hardships. What the injured employee seems to desire is to have his family supported while he is unable to earn wages, and he seems to prefer to take a less amount, to be used at such a time,

than to wait the result of a slow lawsuit, even though it may, if he succeeds, bring him two or three times as much.

Several of the governments of Europe have adopted this system of compensation. Under the provisions of the English workmen's compensation act of 1897, an employee of the Government, if injured, receives for a period not exceeding six months one-half his average weekly earnings during the previous twelve months; if killed, his family receives an amount ranging from \$730 to \$1,460.

In France certain Government employees in state, departmental, and communal establishments are paid two-thirds of their annual wages for permanent total disablement and one-half for temporary disability, besides medical and surgical benefits. When death occurs, those dependent upon him receive 60 per cent of his annual wages until the widow remarries and until the children reach the age of 16.

In Germany employees of the Government in the industrial establishments of the army and navy, and in the postal, telegraph, and railway service, receive for total disability from one-half to two-thirds of their daily wages and a less amount for partial disability. In case of death dependents receive 60 per cent of their wages until widow remarries, etc.

Similar compensation is provided in Austria and other European countries. The money so paid seems to be derived for the most part from accident insurance for which the governments pay in whole or in part. In Austria, for illustration, an employee receives 60 per cent of his wages for the first four weeks from the required sick benefit insurance, for which the employee pays two-thirds and the Government one-third; thereafter during disability he receives the same amount from the required accident insurance fund, of which the employee pays 10 per cent and the Government 90 per cent. In Belgium employees of the Government are compensated under the compulsory accident insurance law, the Government paying the whole premium. The entire cost under the workmen's compensation act of France is borne by the Government. In Germany sickness and accident insurance is compulsory except in the case of soldiers and other excepted classes, which are otherwise provided for.

Mr. JONES of Washington. Will the gentleman yield?

Mr. ALEXANDER of New York. Yes.

Mr. JONES of Washington. I notice here that the employees in the Reclamation Service are not covered by this bill. A great many of these employees are engaged in very hazardous work, where there is blasting going on, and they are liable to injury. Will the gentleman state why they are not included in this bill?

Mr. ALEXANDER of New York. Because, I may say to the gentleman from Washington, that although it may be hazardous employment, it is usually done under contract and not directly by the Government. This was my information after the gentleman spoke to me of the matter during the preparation of the bill.

Mr. JONES of Washington. I came with reference to the matter as soon as I learned of the preparation of the bill.

Mr. STERLING. May I ask the gentleman from Washington if nearly all of that work is not done under contract, and are not those men employed by contract?

Mr. JONES of Washington. Oh, not entirely. Some of it the Government does.

Mr. STERLING. Does the gentleman have any idea how much of it is done by the Government?

Mr. JONES of Washington. I can not say; but I know there is a great deal of it. For instance, in my own county the work is being done by the Government now and not by contract.

Mr. KEIFER. Mr. Speaker, I would like to ask the gentleman a question.

Mr. ALEXANDER of New York. I yield to the gentleman from Ohio.

Mr. KEIFER. I am in sympathy with this matter. I do not see any reason why the word "hazardous" should be used in line 7, page 1. Suppose one of the employees of the Isthmian Canal was engaged in work that could not be classed as hazardous and yet through the blasting and other hazardous operations that were going on along the line of the Panama Canal he was injured; he could not recover anything, could he, under this bill?

Mr. ALEXANDER of New York. I will say to the gentleman that this covers, or is supposed to cover, all employees under the Isthmian Canal Commission who work in dangerous places or are likely to be hurt by blasting.

Mr. KEIFER. But if the gentleman will pardon me, I am speaking now of the bill and not what somebody said. This is the language:

Any person employed by the United States as an artisan or laborer in any of its manufacturing establishments, arsenals, or navy-yards, or



in the construction of river and harbor work, or the management and control of the same, or in hazardous employment under the Isthmian Canal Commission—

Now, the employees must be actually employed in hazardous employment to be entitled to any relief under the bill should it become a law, and if they are not so employed and yet get injured through hazardous work of others, they could not recover under this bill.

Mr. ALEXANDER of New York. I will say to the gentleman that the bill covers all persons who could by any possibility be injured through hazardous work.

Mr. KEIFER. I do not know. You use the word "hazardous" relating to employees of the Isthmian Canal Commission and do not use it as to artisans and laborers in manufacturing establishments or arsenals or navy-yards or in the construction of river and harbor work. Why this discrimination?

Mr. ALEXANDER of New York. Because men so employed are engaged in hazardous occupations, while not all on the Isthmus are engaged in hazardous occupations.

Mr. KEIFER. I think they are not all engaged in actual hazardous occupations, but they are all in hazardous relation to hazardous work, and that is my observation, having been there twice and somewhat carefully examined or observed the work in progress all the way across the Isthmus.

Mr. ALEXANDER of New York. The bill was worded advisedly so as to exclude those not engaged in hazardous employment. All those engaged in navy-yards, arsenals, proving grounds, and other establishments indicated are likely to be hurt.

Mr. SULZER. Will my colleague permit an inquiry?

Mr. KEIFER. Let me make this inquiry, and then I have finished. Suppose one of these men not engaged in hazardous employment at all is traveling upon the Isthmian railroad that is engaged in carrying back and forth material in making the cut at Culebra and other places and he is injured through some means or other through no fault of his. He could not recover under this, while the man engaged in the hazardous work on the train could had he been injured.

Mr. ALEXANDER of New York. I think the Secretary of Commerce and Labor would find that when an employee is traveling on the railroad he is engaged in hazardous employment.

Mr. SULZER. Will the gentleman yield for an inquiry?

Mr. ALEXANDER of New York. Yes.

Mr. SULZER. In my opinion this is a most meritorious bill, and I am very much in favor of it as a step in the right direction, but what I wish to know is this: Why does not this bill cover all the employees of the Government, such as the letter carriers, the railway mail clerks, the elevator men in the public buildings of the Government, and so forth. These men are all engaged in hazardous employment and just as likely to be hurt as anybody else, and they should have this protection as well as those now provided for in the bill. I would like to amend the bill to include all the toilers and workers.

Mr. ALEXANDER of New York. I will say to my colleague from New York postal clerks are already provided for. They get their year's wages if injured, and if killed, their families receive a thousand dollars in a lump sum. The Life-Saving Service men are likewise protected. The purpose of the bill is to protect those who are engaged in hazardous employment.

Mr. SULZER. That is exactly what I am in favor of doing. But I want the bill to go further and include all the employees of the Government. The bill is good so far as it goes, but it does not go far enough to suit me.

Mr. ALEXANDER of New York. Now, Mr. Speaker, I must decline to yield further. I reserve the balance of my time. I yield five minutes to the gentleman from Massachusetts [Mr. GILLETT].

Mr. HAMILTON of Iowa. I desire to ask the gentleman a question.

The SPEAKER. Does the gentleman yield?

Mr. GILLETT. I do not yield. Mr. Speaker, this legislation illustrates to my mind the harmful effect of the Democratic attempt to usurp the functions of the majority and force upon it its programme of legislation by filibuster. Of course I do not suppose they expect to accomplish their object, perhaps they do not want to do so, but whether they accomplish that or not, there is one thing they do accomplish and inevitably accomplish. They force the majority to bring its legislation under stress with a limit of time like this under suspension of the rules, so that we have no opportunity to amend or debate it as we should, and, consequently, the Democratic filibuster and consumption of time is directly responsible for limiting this House in expressing its opinions upon legislation.

This bill is an illustration. Ordinarily, as it is on the Union Calendar, it would have to go to the Committee of the Whole and be subject to amendment, and I believe would be infinitely improved by the votes of the majority of the House. I think that a great majority of this House believe that the employees of the Government throughout the country should at least have the same rights that every employee of any private individual or corporation has; that he should at least have the right, when injured in employment, to sue the person or the corporation by whose negligence the injury occurs. That is a privilege that every other individual in the United States has. That is the least which I think every Government employee should have, and if this bill was subject to amendment I have no doubt that this House would at least go as far as that. But I recognize that under the conditions forced upon us we can not have that right. Therefore, although I think this bill does not go nearly far enough, yet it does accomplish a little something; it does give to the Government employees, who have absolutely no remedy, some slight remedy, and therefore I hope that this bill, as a mere stop-gap, a gift of a small part of what the employees ought to receive, will become a law. My attention was drawn to this subject many years ago, and although I know it is unpopular and tactless to say "I told you so," I can not refrain from saying that before this subject was generally agitated, nearly ten years ago, I introduced a bill, it being called to my attention by employees in my district, allowing a Government employee to sue the Government the same as he could any other person. Since then the subject has been discussed, the President of the United States has taken up the subject, labor itself has gone further and public opinion has gone further, and bills have been introduced which practically amount to an insurance of the Government employees against any accident. Whether the House would adopt that principle if it had the opportunity, I do not know. It seems to me the least that the House would give would be that when they are injured without negligence of their own, and by the negligence of their employer, they should have the same right as all of the rest of us have—to resort to the courts for their legal remedy. But inasmuch as there is no opportunity for amendment, I hope that this bill in its present form will be adopted.

Mr. HAMILTON of Iowa. Will the gentleman yield for a question?

Mr. GILLETT. Certainly.

Mr. HAMILTON of Iowa. I desire to ask the gentleman this question: It speaks of the employees having the right to sue the Government for injuries the same as suing a private corporation, for instance. Under the terms of this bill would they have any right, if the bill became a law, to sue the Government?

Mr. GILLETT. I am afraid I must have been very obscure in what I said. That was the very criticism I was applying to this bill, because it does not give any right to sue the Government. All this bill does is to give the right to a person who is injured to go to the Secretary of Commerce and Labor and get, at the most, one year's wages. Now, what I think he ought to have is a right, at least, to go and sue for a fair compensation.

Mr. HAMILTON of Iowa. I agree with the gentleman entirely, but under this bill they would have no such right, and the decision of the Secretary of Commerce and Labor would be a final decision on all these propositions?

Mr. GILLETT. Yes. That was the very criticism I was bringing against the bill. I hope I make myself clear now.

Mr. HAMILTON of Iowa. Then, does the gentleman think that the bill ought to be voted down?

Mr. GILLETT. I do not. I think it is better to have this bill than nothing.

Mr. SHERLEY. Mr. Speaker, I desire now to renew my request that twenty minutes of additional time be given for debate on this bill. I ask unanimous consent.

Mr. CAPRON. Mr. Speaker, in view of the refusal of consent to extend remarks upon the bill by the leader of the minority, I shall object.

Mr. SHERLEY. I want to ask the gentleman a question.

Mr. ALEXANDER of New York. I reserve the balance of my time until the gentleman from Alabama consumes some of his.

Mr. CLAYTON. Mr. Speaker, may I ask how much more time the gentleman from New York has?

The SPEAKER. Five minutes.

Mr. CLAYTON. Mr. Speaker, this bill comes from the Committee on the Judiciary with a unanimous report. It is not perfect in all particulars, but it was the best that could be done to harmonize the divergent views of the members of the

committee. The bill does not present an entirely new legislative question. An examination of the report will show that laws similar to this obtain in respect to railway mail clerks and some other employees of the Government engaged in some other hazardous work.

The gentleman from Massachusetts [Mr. GILLET] goes out of his way to indulge a very boyish complaint against the minority Members of this House. He undertakes to tell to the country that this bill is not perfect and will not be perfect as it passes this House, because, he says, the minority will not allow you of the majority to amend this bill as it ought to be amended. [Applause on the Democratic side.] Now, Mr. Speaker, I want to make this proposition, this request, right now: I ask unanimous consent that five hours be given to the consideration of this bill and that amendments be allowed during that five hours. I ask unanimous consent that this may be done. [Loud applause on the Democratic side.]

Mr. STERLING. I object.

Mr. WILLIAMS. Who objected, Mr. Speaker?

The SPEAKER. The gentleman from Illinois.

Mr. CLAYTON. The gentleman from Illinois objects. So, then, we find that objection to amendment of this measure comes from the Republican side, by a gentleman from the State of Illinois. [Applause on the Democratic side.]

Mr. Speaker, it has not been the purpose of the minority members of the Committee on the Judiciary to bring partisan politics into such a matter as this, and I deplore the fact that the gentleman from Massachusetts saw fit to inject into this great question a lot of puny, peanut politics. [Applause on the Democratic side.] I now yield five minutes to the gentleman from New Jersey.

Mr. HUGHES of New Jersey. Mr. Speaker, I regret very much that the gentleman from Massachusetts saw fit to endeavor to obtain some partisan advantage out of the consideration of this measure. He called the attention of the House to the fact that time is flying and that little or none is left to consider measures of this kind. I call his attention, and that of the country, to the fact that there is nothing which compels this House to adjourn on the 23d day of May, or any other day prior to next December. If the majority on this floor is in the mood, if the majority in this House is sincere in its oft-repeated declarations in favor of labor, this House need not adjourn on the 23d of May, but can go on any length of time it desires in order to pass legislation that the people want. I am voting for this measure now because I can get nothing better.

But we can, if the majority chooses, stay here and pass an anti-injunction bill, a bill which you can put up to us under a rule, name it by number and by title, introduced by a gentleman on your side of the House, and we will stay here with you after the 23d day of May and vote upon that anti-injunction proposition. We will stay here until the Commission that was appointed to inquire into the constitutionality of the eight-hour act has reported. That law has been in effect, so far as legislative enactment is concerned, since 1868 in this country, but the heads of the Departments have consistently and constantly ignored it, and are now ignoring it, and it has been the subject of legislation in each of the Congresses in which I have served. Yet we are in precisely the same position now in regard to it as we were when I first came into this House. Bills are introduced here, hearings are had, and some subterfuge is adopted in the closing days of the session that carries them over the Presidential election. There is no reason why this character of legislation should not be disposed of.

Can you go to the country and say that you can not pass these bills because you had to go to Chicago, perhaps, to prevent the nomination of some man who will act in the interests of the people? This bill is not much. There is nobody who desires it greatly except for this fact: That it recognizes the principle. It means that this great Government is not lagging too far behind the other great nations of the earth, practically every one of which has adopted the principle in its entirety. We do not give a man a right of action; we do not give him the right against the Government which he has against any other employer. We simply say to him that if he is injured and can satisfy the head of some Department that he has not violated the rules and regulations by him prescribed, and that he is without fault, then after filing affidavits to show that he has done everything proper for him to do under the circumstances, perhaps he will get his wages for a year, if his injuries are sufficiently severe.

It is impossible, of course, for the Members of this House to understand the bill in the limited time that it will be before them for discussion, but this much can be said of it, that it is a step in the right direction. I sincerely hope that it will pass. I yield back the balance of my time.

Mr. CLAYTON. May I ask the gentleman from New York if he desires to consume his five minutes now.

Mr. ALEXANDER of New York. I prefer that the gentleman consume the remainder of his time.

Mr. CLAYTON. Then I yield three minutes to the gentleman from Mississippi [Mr. WILLIAMS].

Mr. WILLIAMS. This is one of the bills upon the Democratic minority programme, and it is a bill upon which I am not going to demand the yeas and nays, in accordance with the Democratic programme first asserted by me.

The gentleman from Massachusetts [Mr. GILLET] has said that "the minority was trying to usurp the rights of the majority." You Republicans have gotten so arrogant and dogmatic that you think when a man elected by the people to serve a constituency on this floor happens to be a Democrat, he has no right to express opinions about what the legislative programme of the Congress of the United States ought to be, nor any number of them to combine to express that opinion. We are simply asserting the right to awaken the public conscience, and it is better to pass good legislation such as this is, and into which you have been whipped under a twenty-minute debate on each side, than not to pass any good legislation at all. That is as far as that goes.

Now, Mr. Speaker, to prove your bad faith in connection with this matter, the gentleman from Massachusetts has said that I have forced you to act under this special rule. Why, I have not. You adopted the special rule. We on this side voted against the special rule, and you are not even by that rule compelled to operate in every case under that rule. You could have made an exception in this particular case. You could have given the right of amendment by simply resorting to the ordinary procedure, and you need not have shackled your men on that side to vote "up or down" without any power of amendment. However, you of your own will, possessing power to grant right to amend, or yourselves to amend, in the very motion to suspend, have purposely denied it. Now, as I am not going to call the roll, and as that takes thirty-five minutes, I ask, in order to demonstrate the hypocrisy of the pretense that the right to amend is cut off by me, unanimous consent that thirty-five minutes may be given to Members to offer amendments to this bill.

Mr. PAYNE. Mr. Speaker, I object.

Mr. WILLIAMS. Ah, I knew the objection would come, and I hoped, so that it might be a Republican party move, it would come from the floor leader of the Republican party. It has come. [Applause on the Democratic side.] Now, the gentleman from Massachusetts [Mr. GILLET], so fair, so honest, will go back to the people of Massachusetts and say:

The speech that I made, though I thought at the time I was doing sincere work for the public, turned out afterwards to be pure, unadulterated buncombe, as far as the Republican party was concerned, and the objection that the bill could not be amended by me must lie upon my own side, the Republican side of the House.

[Applause on the Democratic side.]

Mr. Speaker, I should like to amend this bill in at least two respects. I have read it very carefully; I agree to it very much indeed. I heartily indorse it as an improvement on present wrongs. I think, however, that the ninety days' time given in section 4 for a claim for compensation to be made is too short. I should like to see it extended. I think the provision in section 6 that anybody who undertakes to "accept benefits under this act to which he is not entitled shall be guilty of a misdemeanor" ought to be stricken out, because under a possible construction of the act, if a man made a claim for damages and that claim was overruled by the Department, the sole judge and final arbiter under the act, it might possibly subject him to punishment for a misdemeanor for having attempted to get compensation.

The SPEAKER. The time of the gentleman has expired.

Mr. CLAYTON. I yield one minute more.

Mr. WILLIAMS. But, Mr. Speaker, this bill will go to another branch of the National Legislature, and I have a hope that these two defects and other defects will be cured there, and I hope there will not be a vote cast, upon this side of the Chamber at any rate, against this bill, and I hope that that side of the Chamber will also be unanimous, either from conviction or because of fear in supporting it and in giving to the laboring men in the employ of the Government their just rights. If the bill be not perfect, it can be perfected on the other side of the Capitol. If the bill be not perfect now, it might have been perfected by the majority here during this long session or by unanimous consent now granted to consider amendments; but this majority is so anxious to show that it is helpless in the face of a minority which itself is vaunted to be really helpless and so anxious to indulge in demagogic nonsense about being "forced to do what it does not want to do by a minority" that



is powerless to force anything, that you will not perfect it here, though I hope the Senate, composed of a majority of Republicans and some White House Democrats, will. [Applause on the Democratic side.]

Mr. CLAYTON. Mr. Speaker, I yield two minutes to the gentleman from Texas [Mr. HENRY].

Mr. HENRY of Texas. Mr. Speaker, this bill goes a short way in the right direction. It should go much further. The Democrats are ready to go further, but the Republican party in this House, under their tyrannical rules, will not permit it. You think that you will throw this little "sop" to the laboring people of the country and thereby accomplish your purpose of hoodwinking them. Gentlemen, if I had my way, instead of saying to the laboring man, the artisan, the mechanic, "You may have compensation for the time you lose from your work on account of injury, or your family may have one year's pay on account of your death," I would throw open wide the doors of the courts of the country to them, and say, "Come into the temples of justice and stand upon the same footing as any other citizen in this broad Republic, and contend for every right and every dollar to which your cases entitle you." Ah, it accords but little justice to the laboring man. Why are you not willing to go further? Why are you not willing to take up the anti-injunction measure and the other meritorious legislation demanded by those engaged in laborious pursuits? If you are willing to do it, the Democratic party will remain here with you all the summer to consummate their just demands. We challenge you to that field of legislation. [Applause on the Democratic side.]

Mr. WILLIAMS. If the gentleman from Texas will permit an interruption, I would say that there is nothing in the Constitution or the rules forcing this House to adjourn until next December, and they can stay here and perfect legislation if they will.

Mr. HENRY of Texas. Concurring with the gentleman from Mississippi [Mr. WILLIAMS], I will go further, and say if you will accord this justice, the Democrats will remain in session until the 1st day of December in order to secure the legislation. [Applause on the Democratic side.]

Mr. CLAYTON. I yield two minutes to the gentleman from Tennessee [Mr. GAINES].

Mr. GAINES of Tennessee. Mr. Speaker, this bill is a good step in the right direction, and I shall vote for it. I listened with some surprise to the gentleman from Massachusetts [Mr. GILLETTE] who complained about the majority being controlled by the minority of the House. Does the gentleman mean to say that the minority, the Democrats, of the Judiciary Committee, control the majority, the Republicans, of that committee?

Mr. GILLETTE. The gentleman does not quote me correctly.

Mr. GAINES of Tennessee. The gentleman stated that the minority of the House was controlling the majority of the House.

Mr. GILLETTE. I said that you took up so much time in roll calls that we were obliged to adopt rules which necessarily cut off debate.

Mr. GAINES of Tennessee. But the rules did not apply to the work of the committee which framed this bill, and the gentleman knows that since the leader of the minority has been whipping the majority into action and compelling a quorum to come here every day, that the majority has been working every day, and has done more of the ordinary routine and legislation since he begun his so-called "filibustering" than in any day previous thereto in this Congress or in the memory of the gentleman from Massachusetts.

I ask the gentleman, and I ask the majority, why can you not have night sessions, as in previous Congresses? Why can you not labor here at night, if you want to help along the laboring people of this country? Why can you not remain in session until December and perfect legislation which you say is impaired by the action of the minority? You have the majority, the majority makes the rules, and you make the laws, and the minority has served as a cat-o-nine tails on your legislative backs to put you to work and keep you at it. If we had not whipped you into action, this Congress would have gone down into history as a "do-nothing Congress," and you know it. Mr. Speaker, the majority did nothing in December, and practically nothing in January, and you know the people of this country know that fact; and now Members of the majority are whining here because the minority, the Democrats, are making the majority do a little something for the relief of the people of this country, which could have been and should have been done long since. [Applause on the Democratic side.]

Mr. CLAYTON. I yield two minutes to the gentleman from Kentucky [Mr. SHERLEY].

Mr. SHERLEY. Mr. Speaker, I understand that the gentleman from New York will yield me two minutes.

Mr. ALEXANDER of New York. I yield two minutes to the gentleman from Kentucky [Mr. SHERLEY], Mr. Speaker.

Mr. SHERLEY. So that I have four minutes. Mr. Speaker, in that four minutes it is impossible to make a full statement as to what this bill does and does not contain, and before attempting to make even a limited statement as to some of its provisions I wish to state that there have always been two theories as to the position the Government should take in regard to compensation for employees. One view partially embodied in this bill is that there should be fixed rates of compensation. The other view is to give to the citizen the same right against the Government that he would have against an ordinary employer, to give him access to the courts that he may there establish his rights. In my judgment there is a middle ground which could be successfully invoked. That would be to make provision that certain compensation should be given in case of injury, but it should be optional with the employee to accept that or to assert his right in a court, his election to assert his right in court depriving him of any right under the compensation provisions of the bill.

Coming to the provisions of this bill, and as an evidence of its crudity, I desire to call attention to one fact. There is certain compensation fixed in the case of death, and that compensation provides that the widow or minor children shall receive the same sum for the remainder of the year that the employee would have received if alive and he had continued to be employed. In other words, if he dies two days prior to the expiration of his year his widow would be entitled, under the ordinary construction of this bill, to compensation for two days, whereas if he died at the beginning of the fiscal year the compensation would extend over the remainder of the year—a proposition that surely was not intended by the authors of the bill. Doubtless what was intended was that in case of death resulting from injuries received in the Government's employ the beneficiaries of the deceased employee should receive a sum equal to the yearly compensation that would have been paid such employee had he lived and continued in the Government employ less such amount as shall equal the sum, if any, that might have been paid him during his illness after his injury. But this is not what is provided, by any means.

Mr. COOPER of Wisconsin. Will the gentleman permit me to make a suggestion?

Mr. SHERLEY. Just a suggestion.

Mr. COOPER of Wisconsin. If a laboring man in my State was killed by a railroad accident, his family would get \$5,000, while under this bill his family would simply get the balance of his salary for the year.

Mr. SHERLEY. Yes; the amount the family would receive would depend upon the time in the year's employment he was killed. Now, if the House was permitted to amend the bill that could be remedied by putting in a few words and striking out seven. On page 2, if you struck out in lines 14 and 15 the words "for the remainder of the said year," and in line 16, after the word "pay," insert "for the year," the law would read that these beneficiaries shall receive the same amount that the husband, or father, or son, would be entitled to receive as pay for a year if he were alive and continued in that employment that long, and then add just prior to the word "provided," in line 17, the words "less such amount as equals the sum, if any, paid such employee, in accordance with the provisions of section 1 herein."

Now, this would make the bill accord with what, as I have said, was the evident intention of the bill.

If I had the time, I might urge other objections to the bill, but realizing the legislative situation I shall not urge the nonpassage of the act. I realize that it is this or nothing, and I realize that this bill will probably be perfected before it becomes a law, and that in any event the moment it goes on the statute books and real judicial attention is directed to it there will then be enacted a real law that will do substantial justice to the employees of the Government. What I hope to see is a bill providing for certain definite compensation if the employee chooses to accept it, with the option of refusing to accept such compensation and then have the right to seek his remedy in court as he would seek it against any other employer. The effect of that will be twofold. It will not only be to give to the employees just compensation, but it will be to make the Government conduct its business properly. The greatest restraint that has been upon the railroads, and the greatest help in the protection of life, has been the right of the individual citizen to go into court and recover damages for negligence. Way beyond your safety-appliance laws in effectiveness is

that right of the citizen to make the railroad pay for its negligence. [Applause.]

The SPEAKER. The time of the gentleman from Kentucky has expired.

Mr. CLAYTON. Mr. Speaker I yield two minutes to the gentleman from New York [Mr. SULZER].

Mr. SULZER. Mr. Speaker, this is a good bill. Its purpose is to compensate Government employees engaged in hazardous occupations in case they are injured. It is a step in the right direction, and I hope the bill will pass unanimously. It has been adopted in European countries, and it should be the law in this country. In many things along these lines we are behind the age. The only criticism that I can make in regard to the provisions of the bill is that it does not go far enough to suit me. If I had my way, I would provide that every employee of the Government engaged in hazardous pursuits should have the benefits of the terms of this bill. Why only include those engaged in certain departments of the Government? Why not include those engaged in hazardous employment in every department of the Government? They should all be included. It is only fair and just and proper. I will go as far as any man in Congress in enacting legislation to protect Government employees. The honest, the industrious, and the faithful employees of the Government are entitled to this consideration. The bill should be amended to include all the employees of Uncle Sam engaged in dangerous occupations. If the House had the opportunity to consider this bill as it ought to be considered, on its merits, I know there are enough Members in the House to vote to amend the bill so that it will provide some protection for all the employees of the Government. However, that can not be done under the rule. This is the best we can get now, and I shall vote for the bill, and hope it will pass and become a law before we adjourn. [Applause.]

The SPEAKER. The time of the gentleman from New York has expired.

Mr. CLAYTON. Mr. Speaker, I yield one minute to the gentleman from Pennsylvania [Mr. NICHOLLS].

Mr. NICHOLLS. Mr. Speaker, I am very happy to be a Member of the House of Representatives at a time when a bill of this character is about to be passed. I shall vote for it heartily. I want to say that we are extending a principle which is in effect and has worked admirably in Great Britain. They also have in Great Britain a liability bill, which allows them to sue for damages in case the damage is greater than the compensation provided for by the compensation act. I believe that this principle ought to become an established fact in the various States of the Union, in order that the people who are engaged in mines and factories who are unable to employ lawyers and sue for damages and whose children suffer for want while such lawsuits are going on may be at once compensated and properly taken care of. In the anthracite region, a part of which I represent, there are approximately 600 people killed every year. If a tax of 2 cents per ton were placed upon the coal mined, it would provide \$900,000 for the 600 men, or \$1,500 each, and leave a half million dollars to relieve those who are injured.

The SPEAKER. The time of the gentleman has expired.

Mr. CLAYTON. Mr. Speaker, how much time have I left?

The SPEAKER. One minute.

Mr. CLAYTON. Then, Mr. Speaker, I yield one minute to the gentleman from Illinois [Mr. SABATH].

Mr. SABATH. Mr. Speaker, for about six months I have worked to prepare a similar bill to the bill that is under discussion now. I introduced my bill February 10, which not only provides for compensation—

Mr. CLAYTON. What is the number?

Mr. SABATH. The number is H. R. 16739. It not only provides for compensation for Government employees, but it provides for compensation for injuries to employees engaged in interstate and foreign commerce, which would include thousands and thousands of laboring men who are employed in hazardous and dangerous occupations. I notice that that bill has not received any consideration. If the gentlemen who reported this bill that is before us now would have been sincere, fair, and honest with the laboring men, they would have reported my bill in place of this one. [Applause on the Democratic side.] Two sessions ago a bill similar to the one now under consideration was introduced by the gentleman from Virginia [Mr. MAYNARD], and—

The SPEAKER. The time of the gentleman has expired.

Mr. SABATH. I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from Illinois [Mr. SABATH]

asks unanimous consent to extend his remarks in the RECORD. Is there objection?

Mr. PAYNE. I object.

Mr. ALEXANDER of New York. Mr. Speaker, how much more time have I?

The SPEAKER. Three minutes.

Mr. ALEXANDER of New York. I yield one minute to the gentleman from Illinois [Mr. McKINNEY].

Mr. McKINNEY. Mr. Speaker, I am strongly in favor of the Government being made liable for compensation on account of injuries received by its employees in the course of their employment. I can see no good reason why such liability should not be established by law. I shall vote for this bill, not because I consider it the best measure that was before the Judiciary Committee, but because it is a step in the right direction, and for that reason only. And I shall trust that in future sessions Congress will provide more adequate and more just compensation.

The Government is a competitor in the field of labor with private employers. As yet there has been no satisfactory reason advanced as to why the same liability attached to private employment of labor should not extend to the Government.

The SPEAKER. The time of the gentleman has expired.

Mr. ALEXANDER of New York. Mr. Speaker, I yield one minute to my colleague from New York [Mr. DRISCOLL].

Mr. DRISCOLL. Mr. Speaker, this is perhaps as good a bill as could get the unanimous support of the Judiciary Committee. However, I am disappointed in it. It is not, in my judgment, as fair or as equitable a bill as should come before us. Every employment, every relation in life is somewhat hazardous and dangerous, and I know of no reason why every employee who is injured through no fault or negligence on his own part should not have the right to full compensation, as he would have against a corporation or against a private individual on the same facts. He can not recover at all under this bill unless he proves he is entirely free from negligence or carelessness which caused or contributed to the accident. Therefore there is no reason why he should not recover all the damages to which he is entitled and all the damages which he or his family has suffered by reason of his injury or by reason of his death. I will support this bill, and I hope that in the next Congress we will have the opportunity of voting for a more comprehensive, fair, and equitable measure.

Mr. ALEXANDER of New York. Mr. Speaker, I yield the balance of my time to my colleague from New York [Mr. PARSONS].

Mr. PARSONS. Mr. Speaker, after the objections made by the minority that no opportunity was given to amend, I listened with interest to the speech made by the leader of the minority, for in that speech he mentioned the amendments that he would like to offer. They were to the ninety-day provision and to section 6, but those are not the sections which I think most would like to have amended. I suspected if they were given a chance for amendment they might vote "present," as they did the other day.

Mr. COCKRAN. Try us.

Mr. PARSONS. The section which really ought to be amended here and which I would like to see amended, is the first section of the bill, which describes the classes of employees who are to be benefited by the legislation. I wish I could offer an amendment, and if I could it would be to strike out all the language from line 4, after the word "States," down to the word "is," in line 9.

Mr. SULZER. We will give you unanimous consent to do it.

The SPEAKER. The gentleman's time has expired. All time has expired. The question is on suspending the rules and passing the bill with the amendment.

The question was taken, and a majority having voted in favor thereof, the rules were suspended and the bill as amended was passed.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. CROCKETT, its reading clerk, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 20345) making appropriations for the consular and diplomatic service for the fiscal year ending June 30, 1909.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 21260) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1909, and for other purposes, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. ALLISON, Mr. HALE, and Mr. TELLER as the conferees on the part of the Senate.



The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 5989. An act authorizing the Department of State to deliver to Maj. C. De W. Wilcox decoration and diploma presented by Government of France; and

S. 3940. An act for the proper observance of Sunday as a day of rest in the District of Columbia.

**DIPLOMATIC AND CONSULAR APPROPRIATION BILL.**

Mr. PERKINS. Mr. Speaker, I call up the conference report on the diplomatic and consular appropriation bill, and move to suspend the rules and agree to the conference report.

The SPEAKER. The gentleman from New York moves to suspend the rules and agree to the conference report on the following bill.

The Clerk read as follows:

The bill (H. R. 20345) making appropriations for the diplomatic and consular service for the fiscal year ending June 30, 1909.

The conference report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 20345) making appropriations for the diplomatic and consular service for the fiscal year ending June 30, 1909, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3 and 8.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 4, 5, 6, 7, 9, 11, and 12, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows: Strike out the matter inserted by said amendment and strike out the amended paragraph and insert in lieu thereof the following:

"Secretary of legation to Salvador and consul-general to San Salvador, two thousand dollars; and the provision in the act of May eleventh, nineteen hundred and eight, for a consul-general at San Salvador is hereby repealed."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following:

"For salaries of consuls-general and consuls, as provided in the act approved May eleventh, nineteen hundred and eight, entitled 'An act to amend an act entitled "An act to provide for the reorganization of the consular service of the United States," approved April fifth, nineteen hundred and six,' as follows: Consuls-general, three hundred and three thousand dollars; consuls, seven hundred and thirty-three thousand dollars; in all, one million and thirty-six thousand dollars.

"For salaries of five consular inspectors, at five thousand dollars each, twenty-five thousand dollars."

And the Senate agree to the same.

C. B. LANDIS,  
J. R. PERKINS,  
WM. M. HOWARD,

*Managers on the part of the House.*

EUGENE HALE,  
S. M. CULLOM,  
A. S. CLAY,

*Managers on the part of the Senate.*

The SPEAKER. Is a second demanded?

Mr. WILLIAMS. I demand a second.

The SPEAKER. Under the rules, a second is ordered.

Mr. PERKINS. Mr. Speaker, I do not think this report needs any discussion. I would, however, be glad to answer any questions anyone would like to ask.

Mr. WILLIAMS. We can not get hold of any printed copy of what the Senate amendments are, and I would like to see them from the Clerk's desk, if possible, and know what we are acting upon. The gentleman gives no explanation, and everybody knows that with the disorder that is kept in the House we can not hear what is read from the desk.

Mr. PERKINS. I will state very briefly what the Senate amendments are.

Mr. WILLIAMS. That is what I have asked.

Mr. PERKINS. Two amendments were made by the Senate, one authorizing the Secretary of State to expend \$10,000 in connection with the proceedings in reference to the boundary treaty between this country and Canada; one authorizing the

Secretary of State to expend, if required, \$15,000 in protecting the rights of American citizens who are using lumber and floating lumber on the St. John River, the boundary between Maine and Canada. Both of these questions present international questions, in which it is proper, as we thought, that the Government should protect the rights of our own citizens. In these two amendments, recommended by the Secretary of State, adopted by the Senate, the House committee concur. The Senate had also added an item of \$15,000 for three additional inspectors of consuls. There are now five inspectors of consuls, who receive a salary of \$5,000 each per annum. The Senate increased them by making it eight, increasing the appropriation for their allowance from \$25,000 to \$40,000. In the opinion of the House conferees that increase was not at present required; in that the Senate concurred and receded from their amendment. These are the only amendments, except amendments that are purely verbal in reference to the phraseology of the bill.

There are two other small amendments that for the moment I overlooked. The Senate added in reference to San Salvador an increase of salary of the secretary and consul-general from \$2,000 to \$3,500. To that we objected, and the Senate receded. The Senate added an appropriation of \$3,300 for the expense of a building erected on land owned by the Government in Tokyo, Japan. Some years ago the interpreter, a very valuable man, I am glad to say, in the employ of the Government, erected upon land owned by the Government a building which he has since used. That cost about \$3,300 or \$3,400. He now asks to have allowed the expense of that building which he erected and which stands upon Government ground. That was allowed by the Senate, but the House conferees thought that that would be a dangerous precedent, for anyone under those circumstances who could find ground in any of those oriental countries owned by the Government might erect a building on Government land that he required to use, and, having used during service, would then ask the Government to pay for it. In view of that fact, the House conferees declined to agree, and the Senate receded.

I will say to the House that the only amendments allowed increasing the appropriations in the bill as it passed this House were the two items amounting to in all \$25,000, not necessarily to be used, but to protect the rights of our own Government.

Mr. WILLIAMS. One moment. Is it true, as I have seen it stated in the papers, that the Senate has placed in this bill an item for an appropriation of \$500,000 for the purchase of ambassadorial homes in Berlin and Paris?

Mr. PERKINS. That did not come on the bill. That was an amendment offered in the Senate, but ruled out in the Senate on a point of order.

Mr. WILLIAMS. They did not come in on the bill?

Mr. PERKINS. They are not on the bill.

Mr. WILLIAMS. Now, then, the gentleman moves that we accept the conference report?

Mr. PERKINS. I move that the conference report be accepted by the House.

Mr. WILLIAMS. I think the gentleman has made a very clear and lucid explanation of the matter, and has not wasted the time of the House or the country in an endeavor to explain what he is doing. His explanation has been so well made that it has removed certain objections which I had to the acceptance of the conference report, and I suggest that his example be imitated upon that side of the Chamber in the interest of the intelligent transaction of business.

Mr. GAINES of West Virginia. The gentleman will admit, will he not, that praise from Sir Hubert is praise indeed!

Mr. PERKINS. Oh, certainly; I admit that. [Laughter.]

Mr. TAWNEY. Will the gentleman from New York yield for a question?

Mr. PERKINS. Certainly.

Mr. TAWNEY. I desire to ask the gentleman a question in regard to the item of \$15,000 which the Secretary of State is authorized to expend in the settlement of some questions in reference to citizens of the United States in the State of Maine using the St. John River in the transportation of their logs. How does that question arise? I will say that my understanding is that under the existing law citizens of the State of Maine floating logs down the St. John River float them into Canada, and then back into the United States, and under the Dingley tariff law there is a special provision that admits these logs free of duty. Now, has the Canadian Government interfered with the rights of the citizens of the United States in the use of the river for that purpose.

Mr. PERKINS. The statement is made to the committee that the Canadian Government threatens to interfere in this way: There are American citizens who own timber along the St. John River, who have constructed booms to be used in the float-

ing of their logs, and the Canadian Government alleges that certain acts of our citizens are contrary to treaty rights. The government of the province of New Brunswick has authorized the bringing of litigation to restrain these American citizens from the use of these booms, and has even threatened to interfere by force, to destroy certain booms on the river. Now, it is hoped—

Mr. TAWNEY. Are these booms located in Canadian water; that is, on the Canadian side, or in that part of the river that flows through Canadian territory?

Mr. PERKINS. They are located in the river, and are claimed by our Government, as well as by the lumbermen, to be within the rights which were guaranteed to American citizens by the Webster-Ashburton treaty. Negotiations are now pending between the Secretary of State and the representative of the British Government to have these questions adjusted. It is thought that probably those negotiations will be brought to a termination satisfactory alike to Canada and to our citizens; but it is possible that litigation may arise, and that the provincial government of New Brunswick may take steps which will make it necessary that our citizens be protected, and the Secretary of State thought, and our committee thought, that the facts were such that it was proper that our Government should protect our own citizens in the enforcement or protection of these rights if litigation arises. It is hoped that this expenditure will never be required.

Mr. TAWNEY. The explanation of the gentleman is satisfactory. I wanted to know what the provision was for.

Mr. PERKINS. Mr. Speaker, I ask for a vote.

The SPEAKER. The question is on suspending the rules and agreeing to the conference report.

Mr. WILLIAMS. Mr. Speaker, upon that proposition I will ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken, and there were—yeas 214, nays 7, answered "present" 7, not voting 159, as follows:

## YEAS—214.

Acheson	Draper	Howland	Parker, N. J.
Adair	Driscoll	Hubbard, Iowa	Parker, S. Dak.
Adamson	Durey	Hubbard, W. Va.	Parsons
Alken	Dwight	Huff	Patterson
Alexander, Mo.	Ellerbe	Hughes, N. J.	Payne
Alexander, N. Y.	Ellis, Mo.	Humphrey, Wash.	Pearre
Andrus	Ellis, Oreg.	James, Addison D.	Perkins
Barclay	Englebright	Jenkins	Pollard
Bartholdt	Esch	Johnson, Ky.	Porter
Bartlett, Nev.	Fairchild	Jones, Va.	Pou
Bates	Favrot	Jones, Wash.	Pray
Beall, Tex.	Ferris	Kahn	Prince
Bede	Finley	Keliber	Pujo
Bell, Ga.	Focht	Kennedy, Iowa	Rauch
Booher	Floyd	Kimball	Reeder
Bowers	Foster, Ill.	Kinkaid	Richardson
Brodhead	Foster, Ind.	Kitchin, Claude	Robinson
Brownlow	Foster, Vt.	Knapp	Rodenberg
Brumm	French	Knowland	Rothermel
Burgess	Fuller	Lafan	Russell, Mo.
Burleigh	Fulton	Landis	Shackleford
Burleson	Gaines, Tenn.	Langley	Shirley
Burton, Del.	Gaines, W. Va.	Laning	Sims
Burton, Ohio	Garner	Lassiter	Slayden
Calderhead	Gilhams	Lawrence	Slemp
Campbell	Gillett	Leake	Small
Candler	Godwin	Legare	Smith, Cal.
Capron	Goebel	Lindbergh	Smith, Iowa
Carlin	Gordon	Lloyd	Smith, Mich.
Carter	Goulden	Longworth	Stafford
Cary	Graff	Loud	Steenerson
Caulfield	Granger	Loving	Stephens, Tex.
Chaney	Hackney	Lowden	Sterling
Chapman	Hall	McGavin	Stevens, Minn.
Clark, Mo.	Hamill	McKinley, Ill.	Sturgiss
Clayton	Hamilton, Iowa	McKinney	Sulloway
Cockran	Hamlin	McLain	Sulzer
Cocks, N. Y.	Hammond	McMorran	Tawney
Conner	Hardy	Macon	Taylor, Ohio
Cook, Pa.	Harrison	Mondell	Thistlewood
Cooper, Pa.	Haskins	Moon, Tenn.	Tou Velle
Coudrey	Hawley	Moore, Tex.	Townsend
Cox, Ind.	Hayes	Morse	Underwood
Currier	Heffin	Mouser	Volstead
Cushman	Henry, Tex.	Murdock	Waldo
Dalzell	Higgins	Needham	Wanger
Darragh	Hill, Conn.	Nelson	Washburn
Davidson	Hill, Miss.	Nicholls	Watkins
Davis, Minn.	Hinshaw	Norris	Weeks
Dawson	Hitchcock	Nye	Williams
De Armond	Holliday	O'Connell	Wilson, Ill.
Denby	Houston	Olcott	Wood
Denver	Howell, N. J.	Olmsted	
Dixon	Howell, Utah	Padgett	

## NAYS—7.

Burnett	Hull, Tenn.	Rucker	Saunders
Hay	Johnson, S. C.	Russell, Tex.	

## ANSWERED "PRESENT"—7.

Gillespie	Knopf	Roberts	Thomas, Ohio
Haggott	Lorimer	Sabath	

## NOT VOTING—159.

Allen	Dunwell	Kennedy, Ohio	Powers
Ames	Edwards, Ga.	Kipp	Pratt
Ansberry	Edwards, Ky.	Kitchin, Wm. W.	Rainey
Anthony	Fassett	Küstermann	Randell, Tex.
Ashbrook	Fitzgerald	Lamar, Fla.	Ransdell, La.
Bannon	Flood	Lamar, Mo.	Reid
Barchfeld	Fordney	Lamb	Reynolds
Bartlett, Ga.	Fornes	Law	Rhinock
Beale, Pa.	Foss	Lee	Riordan
Bennet, N. Y.	Foulkrod	Lenahan	Ryan
Bennett, Ky.	Fowler	Lever	Scott
Bingham	Gardner, Mass.	Lewis	Sheppard
Birdsall	Gardner, Mich.	Lilley	Sherman
Bonyng	Gardner, N. J.	Lindsay	Sherwood
Boutell	Garrett	Littlefield	Smith, Mo.
Boyd	Gill	Livingston	Smith, Tex.
Bradley	Glass	Loudenslager	Snapp
Brantley	Goldfogle	McCall	Southwick
Broussard	Graham	McCreary	Sparkman
Brundidge	Greene	McDermott	Sperry
Burke	Gregg	McHenry	Spight
Butler	Griggs	McKinlay, Cal.	Stanley
Byrd	Gronna	McLaughlin, Cal.	Talbot
Calder	Hackett	McLaughlin, Mich.	Taylor, Ala.
Caldwell	Hale	McMillan	Thomas, N. C.
Clark, Fla.	Hamilton, Mich.	Madden	Tirrell
Cole	Harding	Madison	Vreeland
Cook, Colo.	Hardwick	Malby	Wallace
Cooper, Tex.	Haugen	Mann	Watson
Cooper, Wis.	Helm	Marshall	Webb
Cousins	Henry, Conn.	Maynard	Weems
Craig	Hepburn	Miller	Weisse
Cravens	Hobson	Moon, Pa.	Wheeler
Crawford	Howard	Moore, Pa.	Wiley
Crumpacker	Hughes, W. Va.	Mudd	Willett
Davenport	Hull, Iowa	Murphy	Wilson, Pa.
Davey, La.	Humphreys, Miss.	Overstreet	Wolf
Dawes	Jackson	Page	Woodyard
Diekema	James, Ollie M.	Peters	Young
Douglas	Keifer		

So the conference report was agreed to.

The following additional pairs were announced:

Until further notice:

Mr. ANTHONY with Mr. ANSBERRY.

Mr. BONYNG with Mr. ASHBROOK.

Mr. BEALE of Pennsylvania with Mr. BRANTLEY.

Mr. COLE with Mr. BRUNDIDGE.

Mr. CRUMPACKER with Mr. COOPER of Texas.

Mr. DIEKEMA with Mr. CRAIG.

Mr. DOUGLAS with Mr. CRAWFORD.

Mr. FORDNEY with Mr. DAVENPORT.

Mr. GARDNER of Michigan with Mr. GOLDFOGLE.

Mr. GARDNER of New Jersey with Mr. FITZGERALD.

Mr. GRAHAM with Mr. GLASS.

Mr. HAMILTON of Michigan with Mr. HELM.

Mr. HENRY of Connecticut with Mr. LAMB.

Mr. HEPBURN with Mr. RAINEY.

Mr. KEIFER with Mr. MAYNARD.

Mr. LAW with Mr. McDERMOTT.

Mr. LOUDENSLAGER with Mr. RYAN.

Mr. McMILLAN with Mr. SHACKLEFORD.

Mr. MANN with Mr. SHERWOOD.

Mr. OVERSTREET with Mr. SPARKMAN.

Mr. SCOTT with Mr. WILEY.

Mr. TIRRELL with Mr. SMITH of Missouri.

Mr. VREELAND with Mr. PAGE.

Mr. WOODYARD with Mr. SPIGHT.

On this vote:

Mr. McKINLAY of California with Mr. GARRETT.

The result of the vote was announced as above recorded.

## INLAND WATERWAYS COMMISSION.

Mr. STEVENS of Minnesota. Mr. Speaker, I move to suspend the rules and pass the bill H. R. 21899 as amended, providing for the appointment of an Inland Waterways Commission with the view to the improvement and development of the inland waterways of the United States.

The Clerk read the bill, as follows:

*Be it enacted, etc.*, That the President of the United States be, and he is hereby, authorized to continue until the 1st day of July, 1909, the members of the Inland Waterways Commission designated by the President by letter of March 14, 1907, as set forth in Senate Document No. 325, Sixtieth Congress, first session, with the authority, powers, and duties prescribed in this act. In case any vacancy shall occur in the membership thereof the President is authorized to make appointments to fill such vacancies.

SEC. 2. That such Commission shall make to the Congress reports and recommendations in the month of December of the year 1908 and a final report, and shall make reports to the President or to the Congress at such other dates as may be directed, either by order of the President or of Congress. Such reports shall contain a full and complete account of all the acts, recommendations, and transactions of the Commission and of all moneys received and expended.

SEC. 3. That said Commission shall continue the investigation of all questions relating to the development, improvement, and utilization of the waterways of the country, and the conservation of its natural re-



sources with a view to navigation and the promotion of commerce among the States; and shall further investigate the relations between waterways and railways as connected with the effective promotion of commerce, including the facilities and sites for the transfer of traffic; and shall make examination of the work of the respective bureaus and agencies of the Federal Government which now make reports upon inland waters and water supply, or upon the uses and effects of water courses, and shall prepare recommendations with a view to avoiding duplication of duties, authority, or work, and to the organization of an efficient and economical system for the making of such investigation and reports.

SEC. 4. That such Commission may occupy such quarters belonging to the Government as may be available and as may be conveniently utilized for the purposes of the Commission, whether in the District of Columbia or elsewhere, and on failure to obtain such quarters, it may rent other quarters; and it may provide such equipment and facilities as may be necessary for the proper discharge of its duties, and the expenses thereof shall be a proper charge against the fund hereinafter provided.

SEC. 5. That said Commission may expend money for necessary stenographers and clerical assistance and for the traveling expenses of the members and necessary employees while engaged in the performance of their duties, and also for the traveling expenses of such experts as may be requested by a vote of the Commission to appear before them.

SEC. 6. That to carry out the purposes of this act there is hereby authorized to be appropriated, out of the funds of the Treasury not otherwise appropriated, not to exceed the sum of \$20,000, to be expended by said Commission.

Mr. ADAMSON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore (Mr. DALZELL). Under the rules, a second is ordered. The gentleman from Minnesota is entitled to twenty minutes and the gentleman from Georgia to twenty minutes.

Mr. STEVENS of Minnesota. Mr. Speaker, this is the bill known as the "Inland Waterways Commission bill," which establishes a temporary Commission, to expire on the 1st day of July, 1909. It continues the personnel of the present Commission for the reason that the committee thought it better that the former Commission should carry on its work, which, as shown by its reports, has been well under way for a year and has been satisfactory in its results. The powers, duties, and authority of the Commission are defined by this bill.

In section 3 it is shown that four different subjects are defined to the Commission for investigation. First, matters relating to the development and improvement and utilization of the waterways of the country relating to navigation and the promotion of commerce among the States; second, the conservation of the natural resources, with a view to navigation and the promotion of commerce among the States; third, to investigate the relations between waterways and railways as connected with the effective promotion of commerce, including the facilities and sites for the transfer of traffic; fourth, the examination of the work of the respective bureaus and agencies of the Federal Government which now make reports upon inland waters and water supply or upon the uses and effects of water courses, with a view to avoiding duplication of duties, authority, or work, and to the organization of an efficient and economical system of the making of such investigations and reports.

These are the four different classes of investigations that are authorized by the act.

Mr. DAWSON. Will the gentleman yield for a question?

Mr. STEVENS of Minnesota. I will yield to the gentleman.

Mr. DAWSON. Under the provisions of this bill does the Commission have any jurisdiction or cognizance of the question of waterways and navigable streams?

Mr. STEVENS of Minnesota. Yes; it has, in connection with the development, improvement, and utilization of the waterways of the country so far as they relate to the navigation and commerce among the States. That matter can be thoroughly investigated and the facts brought to the attention of Congress.

Mr. FINLEY. Will the gentleman yield?

Mr. STEVENS of Minnesota. I will yield to the gentleman from South Carolina.

Mr. FINLEY. Without the passage of this bill, would the President of the United States have any power to perpetuate the Waterways Commission?

Mr. STEVENS of Minnesota. He would only have this authority which he exercised before. He could designate certain officers of the Government to do certain work somewhat outside of their present scope of authority.

Mr. FINLEY. I believe it is a fact that the President has promised that if Congress does not perpetuate the Commission that he will perpetuate it.

Mr. STEVENS of Minnesota. That has not reached us in any official way.

Mr. FITZGERALD. Mr. Speaker, if the gentleman will yield, the President also appointed on this Commission civilians, persons not connected in any way with the Government service, did he not?

Mr. STEVENS of Minnesota. They may have been originally, but as I understand now, all of the nine members to be con-

tinued are in the Government service somewhere, so that no salaries will be paid to members of the Commission, and the law strictly complied with.

Mr. FITZGERALD. The point I had in mind was this: That in the appointment or designation of persons not connected with the Government to-day in the service, unless the President was specifically authorized by law to do it, he has violated the law which prohibits acceptance of voluntary service for any purpose.

Mr. STEVENS of Minnesota. The Committee on Interstate and Foreign Commerce examined the law in the preparation of this bill and report, and we could find no violation of law on the part of the President.

Mr. FITZGERALD. Did the gentleman from Minnesota ever read that act?

Mr. STEVENS of Minnesota. We have. I think the committee examined the act. Mr. Speaker, I wish to state that I think the House should know that the criticism which has been visited upon this House, upon Congress, and upon the committee for not preparing the bill speedily is not justified by the facts, and I think it is best that the facts appear of record as to what has been done with the Inland Waterways Commission bill. It was introduced first into this House by the chairman of that Commission, Mr. BURTON of Ohio, on the 20th of April last. It was referred to the Committee on Interstate and Foreign Commerce. Nothing was brought to the attention of any member of that committee for several days, when the gentleman from Ohio [Mr. BURTON] asked that this bill be referred to the subcommittee of the Committee on Interstate and Foreign Commerce, which had charge of dams and waterways. A few days later than that the Secretary of the Interior visited the Committee on Interstate and Foreign Commerce in connection with another matter and also asked for that reference.

At the very next meeting of the Committee on Interstate and Foreign Commerce, I think it was a week ago, that bill was referred to a subcommittee. That subcommittee had hearings on the very day that the governors met at the White House. The very first time that any application was made for a hearing, within an hour that hearing was granted. The whole Committee on Interstate and Foreign Commerce never delayed this measure for one single moment. The first hearing was asked for and the first hearing was given on last Wednesday afternoon. A new bill was prepared and substituted, which is now laid before the House, and that substitute was adopted by the Committee on Interstate and Foreign Commerce on yesterday at its first meeting after the report of the subcommittee, so that the House can see that there never has been a delay of one single minute in the investigation and examination and report on this measure.

Mr. JOHNSON of South Carolina. Mr. Speaker, I notice that this bill provides an appropriation of \$20,000 to pay the expenses of the Commission. Is not that unnecessary, in view of the fact that the sundry civil appropriation bill carries an appropriation for the Inland Waterways Commission of \$20,000?

Mr. STEVENS of Minnesota. Mr. Speaker, the gentleman is mistaken. There is nothing in the sundry civil appropriation bill for the Inland Waterways Commission. There is an appropriation for the International Waterways Commission, which is an entirely different proposition. I reserve the balance of my time.

Mr. ADAMSON. Mr. Speaker, the gentleman from Minnesota [Mr. STEVENS] is eminently correct in his statement as to the history and treatment of this subject by the Committee on Interstate and Foreign Commerce. I am aware of the fact that several times humorous gentlemen have attempted to make that committee the butt of their jokes, by alluding to it as various forms of graveyards and sepulchers; but it was entirely unjustified. That committee works all of the time, and when its attention is called to matters of importance it gives to them immediate consideration. This subject, it seems to me, is important. I do not expect to resist the bill. I am heartily in favor of it. I expect to yield my time to gentlemen who do wish to resist its passage. I say it ought to pass for a great many reasons. First, the inherent and prospective benefits to the country; second, we have been informed that the Commission is going to be perpetuated anyway. That being true, we should provide that it be done by operation of law and not by operation of the Executive.

I now yield to the gentleman from Alabama [Mr. CLAYTON] five minutes.

Mr. CLAYTON. Mr. Speaker, I shall not support this bill, and that is the reason why I shall indulge in a few observations at this time. One of the reasons that I shall not support it is because it would be yielding to the swish of the "big stick" in the White House. During the meeting of the conference or

congress of governors now being held in this city, the President made a certain remark, and I desire to read an account of it taken from the New York Sun, dated May 14, 1908. Referring to this conference, it says:

About the most striking thing that happened during the opening session this morning was the applause which greeted a characteristic dig which the President made at the Congress of the United States. He had reached that point in his formal address to the governors where he spoke of the work of the Inland Waterways Commission, created by him last year and still existing without any direct authority of law. Here the President departed from the text of his speech, saying with much distinctness:

"And if Congress fails to perpetuate this Commission as a permanent body, I will do it myself anyhow. I will see that it is continued."

I want to call the attention of this House and the attention of this country to the fact that here the President of the United States has forced some Member on that side to introduce this bill, the purposes of which he says he would carry out without regard to the bill or any law authorizing the same.

Now, what Member of Congress, what Senator and what Representative in the whole Republic charged with lawmaking, with legislating, ever conceived the idea of such a Commission? It was purely an invention on the part of the President.

Mr. TAWNEY. Will the gentleman permit an interruption?

Mr. CLAYTON. I surely will.

Mr. TAWNEY. I will say to the gentleman that on the last night of the session, in the closing hours of the last Congress, unanimous consent was asked for the passage of the resolution authorizing the creation of this Commission, and it was denied.

Mr. CLAYTON. But that came after the President had first suggested the idea.

Mr. WILLIAMS. And it was denied.

Mr. TAWNEY. It was denied.

Mr. WILLIAMS. And the President created this Commission without authority of law—

Mr. TAWNEY. I simply wanted to call attention to that fact.

Mr. CLAYTON. After this House had expressly refused to pass the law, which was originally the idea of the President, even that proposition, as the gentleman from Minnesota must admit, came originally from the President. The idea that I was trying to impress was this, that the idea originated with the President, it is now pursued by him, and he says he will keep it in operation with or without the sanction of the law.

Mr. CAMPBELL. Will the gentleman permit a question?

Mr. CLAYTON. Yes.

Mr. CAMPBELL. Is it not true very much good legislation has been enacted by this Congress at the suggestion of the President of the United States?

Mr. CLAYTON. Some has; perhaps other very good legislation would have been enacted at his suggestion if the majority had cooperated with the minority. [Applause on the Democratic side.]

Mr. CAMPBELL. Is not this good legislation?

Mr. CLAYTON. I doubt whether it is or not, and if the gentleman will possess his soul in peace I will give him some reasons why I do not think it is good legislation.

Mr. CAMPBELL. I will listen.

Mr. CLAYTON. This body and the other body at the other end of the Capitol are charged with the legislation of the country. This idea was expressly repudiated by this House, and after the express repudiation on the part of the House the President takes it up again, without authority of law, and carries his idea of an Inland Waterways Commission into effect by the appointing of one without the authority of law.

The SPEAKER pro tempore. The time of the gentleman from Alabama has expired.

Mr. ADAMSON. Mr. Speaker, before yielding to the next gentleman I want to say one thing which I omitted—

Mr. CLAYTON. Will the gentleman give me one minute more?

Mr. ADAMSON. I yield one minute more to the gentleman from Alabama.

Mr. CLAYTON. Mr. Speaker, I was interrupted in the course of my remarks and I did not have time to complete what I wanted to say. I would ask for the time now to complete my remarks, and I ask unanimous consent to extend my remarks in the Record for the purpose of completing my criticism on this bill. Mr. Speaker, I understand the gentleman from South Carolina yields me his two minutes. Mr. Speaker, this bill creates an unnecessary Commission. It is not necessary. We have the Rivers and Harbors Committee here that are as well informed on these questions and can inform themselves just as well as this Inland Waterways Commission. It is an unnecessary burden and expense. Here authority is given to expend money and increase expenses, and if I had the time I would like to read the provisions of the bill, and it will entail a whole

lot of useless expense upon the Government. It is unnecessary to pass it. We have a committee now just for this business, and I assume the gentleman from Ohio [Mr. BURTON] knows just as much about this matter as chairman of the Committee on Rivers and Harbors as he will know as a member of this Inland Waterways Commission, and he has been a member of both. It is an unnecessary burden; it is a useless thing; it is nothing in the world but a knuckling to the man in the White House. You have repudiated this proposition once; you have turned down his recommendation, but now you dare not stand up and vote like you did about twelve months ago. Stand up again and vote as you did before. The recommendation ought not to have any more force of reason behind it now than it had then. You have yielded to the threat that he made the other day at the White House conference—

The SPEAKER pro tempore. The time of the gentleman from Alabama has again expired.

Mr. ADAMSON. I understand, Mr. Speaker, it is true, as stated by the gentleman from Minnesota, that the members of this commission are all officials and therefore will not entail any expense by their salaries. I also understand that was true before, with the single exception of Senator BANKHEAD, who was at that time a private citizen and has never been paid. I hope that this Government will vindicate its supposed character as an honest and upright business institution by providing, at some time, in some way, for the payment of Senator BANKHEAD for his work done at that time.

Mr. CLAYTON. Look in section 2 and in section 3, and you will see that this bill provides for expenses other than salaries. What those expenses are we do not know.

Mr. ADAMSON. Mr. Speaker, I yielded to the gentleman from Alabama [Mr. CLAYTON] more time than I could spare him with due regard to my promises to other Members, and I can not take time myself to look at the sections indicated nor to answer his question. I now yield two minutes to the gentleman from Texas [Mr. SLAYDEN].

Mr. SLAYDEN. Mr. Speaker, about two weeks ago, pending the consideration of the diplomatic and consular appropriation bill, I submitted some observations on a sale of articles of virtue, I believe they call it, that had been sold or were being sold at auction in New York. The advertisements described it as loot, and the history of the articles on sale indicated it was loot. I published as a part of my remarks an editorial from a New York paper reflecting somewhat upon the character of the people who had been in the diplomatic service of the Government and who were the owners of those objects of art and who were selling them at auction. Incidentally there was mentioned in the editorial Lieut. Col. Littleton W. T. Waller, of the United States Marine Corps. He was not the game I was after and I failed totally to observe the mention of his name. I have received a letter from Colonel Waller saying that the article did him injustice and asking me to correct it as to him so far as I could. I therefore ask the permission of the House to have this letter read by the Clerk, so that it may be inserted in the Record, unless Members are willing to have it inserted without being read, which is just as agreeable to me.

The SPEAKER pro tempore. The Clerk will read.

The Clerk read as follows:

MARINE BARRACKS, NAVY-YARD,  
Norfolk, Va., April 27, 1908.

MY DEAR MR. SLAYDEN: The CONGRESSIONAL RECORD of the 18th instant contains an extract from the Evening Post, New York, introduced by you. This article seriously reflects upon my conduct, both in China, 1900, and Samar, 1902-3.

As to the latter accusation, the record of the court-martial before which I was tried contains the facts, and it does not in any way support the allegations. As to the insinuations or allegations in relation to my conduct in China, I can say that they are entirely false, and this will be verified by the officers serving with me, some of whom have written expressing a desire to answer the article.

I was provost-marshal of the Tartar city of Peking all during my stay and provost-marshal of the Forbidden or Imperial City part of the time. I performed all duties connected with my office to the expressed satisfaction of the commanding general. One, and perhaps the most arduous, duty was to suppress and prevent looting. So well was this duty performed that the Chinese residents came to my quarters the night before I marched from Peking and in speeches thanked me for the great services I had done for them. At this time they presented me with an enormous white silk umbrella inscribed with the services rendered, expressing their thanks and appreciation. Two years later the Chinese Government asked for the names of the officers who had so faithfully guarded the Imperial City, in order that they might be thanked for their services. The paper was sent to me for the names of the officers, as my battalion was the first to guard the sacred doors and I was the provost-marshal.

After six months of heavy work in China, the first month of which we were fighting for existence almost every hour in the day, for my part in the campaign I was brevetted and promoted numbers by our own Government, receiving letters of thanks and commendation from the representatives of England and Japan. I returned to the Philippines and remained there two years longer in active service.



All the officers with me and all the persons knowing me will assert that the charges made are absolutely false. Thinking that you might have, perhaps, failed to notice my name in the article referred to, I write to ask that you will do what you can to remedy the injury.

Very respectfully,

LITTLETON W. T. WALLER,  
Colonel, United States Marine Corps.

Mr. STEVENS of Minnesota. Mr. Speaker, I yield two minutes to the gentleman from Texas [Mr. HARDY].

Mr. HARDY. Mr. Speaker, I favor this bill. It is not a party matter, and for my part I do not care where it comes from. It deals with a subject second to none in importance before the American people and its legislative bodies. All of us who are here, and who are seeking to do so, are every day learning many things with reference to the great question of water transportation, and everything that can tend to systematize and forward the matter of water transportation ought to be encouraged. I believe that no money was ever expended for public improvements, if expended within the purview of the Constitution and judiciously expended, but that was a wise expenditure by the Government. The small amount that will be added by this Commission will be one of the wisest expenditures that this Government incurs. Every session of Congress is teaching us that the important issue before the people is the regulation of freight transportation, and the greatest means for regulation of railway freight will be the establishment of canal and water transportation. [Applause.] And if we can but supplement those transportation facilities with proper regulation of the coordinate system of railway transportation, this country will soon find no more need of discussing the question of discriminations between place and place. The water transportation of this country will destroy the capacity or the opportunity for discrimination if it becomes an established fact in this country, as it has in the great countries of Europe. [Applause.] I take it that this Commission will go far toward throwing light upon the means and method of establishing actual water transportation in this country. All over this land the crying want now is that our rivers, our waterways, our inland water transportation, be not a thing of memory or of romance or of fancy or of paper and pretense, but that it become a reality, and this bill will help to accomplish that purpose. [Applause.]

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. ADAMSON. Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. The gentleman has seven minutes remaining.

Mr. ADAMSON. I yield them to the gentleman from Mississippi [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I am very much in favor, if things were in such an attitude that I could consider the subject-matter upon its own merits, of the purposes of this bill. Some time ago I said upon the floor of the House that I was in favor of a board of public works and of Congress making a certain appropriation each year—an absolutely nonpartisan board of public works, actuated by no sectional or district interests, able to act without logrolling, and expending that money for the best interests of interstate commerce, navigability, public buildings, national parks, and other Federal purposes. But it is not possible this morning to consider this matter upon its own merits. A breach of the privileges of the House of Representatives has been committed. If an utterance such as that which fell from the President of the United States the other day had fallen from the lips of King Edward VII, or from the lips of Kaiser Wilhelm, there would have been a revolution almost in England or in Germany.

A long, long time ago, after Julius Caesar had crossed the Rubicon, after he had brought the Gallic legions with him and had made senators of some of the Gauls; after he had come from another pursuit of Pompey and Pompey's legions, and had finally had the head of Pompey presented to him in Egypt; after he had given himself up to the soft inducements of the Queen of Egypt for a while, and, satiated, had returned to Rome, he finally said, in substance, to the tribune of the people upon an important occasion, "Oh, it is unnecessary for you to act or to appear unless you feel like it;" and he also said, in substance, to the senate of Rome, "Meet and deliberate if you choose; but if you do not choose to meet and deliberate it is all right; I can accomplish my purpose without you;" and he proceeded to found, if not in name still in fact, the Roman Empire.

Do not understand me as indulging in melodramatics. The President of the United States is not Julius Caesar, because Julius Caesar was one of the greatest men and one of the greatest constructive geniuses that the world ever knew, and the President of the United States is neither. I do not, therefore, mean to say that the President of the United States can

revolutionize American institutions. He can not. One reason why Senators and Representatives and public opinion of the country permit him such latitude of wild and lawless utterance is because Senators and Representatives and the public have measured him up about properly and have concluded that he has no power much except the power of verbal exercise. That power has been illustrated in this House lately—lame, impotently, and inconclusively, as all of us know.

In a bushel of message chaff he presented five grains of wheat. The minority Members of this House took up those five grains of wheat, after much sifting, and said, "Let us utilize these five grains."

This great power that the President has asserted—to set aside the Congress itself by ukase, or Caesarean decree, by the formation of commissions without express authority, and to continue them without appropriation—will alarm none, as he has illustrated his inability by being unable to make thirty Republican Members of this House sign an agreement to support him in planting, with the hope of germination, the five grains of wheat that are found in all the immeasurable bushels of chaff that he has presented by message to the American people. With thirty from him, the Democracy had and has yet the balance needful.

Mr. Speaker, I am perhaps excused from voting for the bill upon the ground that it is most meritorious in itself as legislation and ought to be passed, and upon the further ground that the President's ukase or attempted ukase is not really a ukase at all, but is mere verbal exercise. But, upon the other hand, it seems to me that Congress ought to assert itself somehow.

The legislative body ought to make it known to the American people that it has existence and that it has certain duties, and that it does not recognize the right of the President of the United States to legislate. However much the Federal majority may indulge in Federal usurpation, when the Federal usurpation is agreed to by both branches of the political Republican party—executive and legislative—the hope might perhaps be indulged in that the legislative part of the Republican party is not willing to recognize executive usurpation without at least legislative support upon the part of the Republican party.

Mr. Speaker, the President has in several of his great addresses in reference to the military and naval power of the United States said that nothing was more foolish than to make a "bluff" unless "you had a hand behind your bluff." Now, I am a little bit disposed—

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WILLIAMS. I am a little bit inclined to "call his bluff" and vote "no," and see if he dares to continue this Commission in power and appropriate for it regardless of legislative authority. [Loud applause on the Democratic side.]

Mr. STEVENS of Minnesota. How much time have I remaining, Mr. Speaker?

The SPEAKER pro tempore. The gentleman has twelve minutes remaining.

Mr. STEVENS of Minnesota. I agreed to yield all the rest of my time to the gentleman from Ohio [Mr. BURTON], chairman of the Commission; but I would say to my colleague from Georgia I would like to yield a minute to the gentleman from Texas [Mr. HENRY], with the permission of the gentleman from Ohio [Mr. BURTON] and the gentleman from Georgia.

Mr. ADAMSON. The gentleman from Louisiana [Mr. RANSDELL] also would like to have a minute.

Mr. HENRY of Texas. I will yield the gentleman my time. Mr. STEVENS of Minnesota. I would like to give it, but I can only yield one minute to the gentleman from Texas [Mr. HENRY].

The SPEAKER pro tempore. The gentleman from Texas is recognized for one minute.

Mr. HENRY of Texas. Mr. Speaker, ordinarily the appointment of commissions is not a good thing; but in this instance, having examined the proposition and believing in the merits of it, I desire to record myself in favor of extending the Waterways Commission. It comes with a unanimous report of the committee. I can not see any possible objection to it. The distinguished chairman of the Rivers and Harbors Committee [Mr. BURTON] of Ohio, who always does his work well on that or any other committee, who is patriotic, looking to the interests of the whole country, believes the Commission is necessary and entirely proper; therefore, no matter from what source it comes, believing it meritorious, I shall cast my vote in favor of this legislation, meaning so much to the people of the whole country. [Applause.]

Mr. STEVENS of Minnesota. I yield the balance of my time to the gentleman from Ohio [Mr. BURTON].

The SPEAKER pro tempore. The gentleman has eleven minutes.

Mr. BURTON of Ohio. Mr. Speaker, it is with some hesitancy that I speak in favor of this measure, because I am a member of the Commission to which it relates. If the passage of this bill depended upon my vote alone, I should probably decline to vote. But I regard it as most salutary in its intent. President Roosevelt's conception in forming this Commission was a splendid one. He saw the necessity for coordination in the different uses of water. He recognized that the great water courses and the water supply of the country are not only useful for navigation, but for power and for irrigation, and that forest preservation is necessary to maintain the water supply. He thought it desirable that the question be treated as an entirety and that the clarification and quality of water should also be considered. Another object which should as well be attained is the prevention of erosion of soils and the great accumulation of silt in navigable and nonnavigable streams.

I want to correct one slight error in a statement which has been made. At the very close of the last Congress a bill was introduced for a commission, but that bill was not so comprehensive as this. After the expiration of the Fifty-ninth Congress the President chose this Commission of nine members, including four who were regarded as having given special attention to the subject of navigation, and with them the Chief of Engineers, a member of the Bureau of Soils, the head of the Irrigation Service, the head of the Forest Service, and the head of the Bureau of Corporations. It will readily be seen that a commission of this kind could do far more effective work than any single committee of the House. The jurisdiction of the Committee on Rivers and Harbors is very much limited, limited in fact to the mere subject of the improvement of rivers and harbors. So I think there is reason for the existence of this Commission.

But it is said that President Roosevelt has said something in regard to his continuing this Commission, and it is maintained that we must oppose a salutary measure because of some remarks of his. Now, I want to say for Theodore Roosevelt—

Mr. CLAYTON. Mr. Speaker, I want to ask the gentleman a question before he leaves the subject that he was on. He talks about the limited jurisdiction of the Committee on Rivers and Harbors. Has not your committee full power to have hearings covering every phase of the question of the improvement or the navigability of our rivers and the improvement of our harbors, and do you not have elaborate hearings, and do you not take testimony, and do you not publish great volumes?

Mr. BURTON of Ohio. I must decline to yield further. I desire to say something more in my brief time. The Committee on Rivers and Harbors has ample authority to grant hearings relating to the navigability of streams; but if the gentleman had listened to what I have said, he would have realized that its work has to do with only a fraction of the subjects contemplated in the work of this Commission.

Now, as regards what the President said, the witty and profligate Buckingham once wrote a mock epitaph upon King Charles II in these words:

Here lies our mutton-eating king,  
Who never said a foolish thing,  
And never did a wise one.

Theodore Roosevelt has not lain awake nights or suffered anxiety in order that the last two lines of this epitaph might be appropriate to him. He has relied upon action rather than upon speech. He has, in fact, said some things impulsively, but he stands by the record of what he has done. [Applause on the Republican side.] I am perfectly willing to have the gentleman from Mississippi compare him with Julius Caesar as regards constructive ability. He found a country in which, along with a whirling era of industry and great growth of wealth, there had developed unfortunate beginnings of dishonesty and fraud, and he set out—

Mr. WILLIAMS. Mr. Speaker—

Mr. BURTON of Ohio. He set out to bring back the old days of honesty in which the proud and strong, as well as the weak, shall be punished for wrongdoing. [Applause on the Republican side.]

Mr. WILLIAMS. Mr. Speaker—

Mr. BURTON of Ohio. The people love him because he does express himself sometimes impulsively. They trust him for his honesty; and when you come to analyze—

Mr. WILLIAMS. Mr. Speaker—

Mr. BURTON of Ohio. How much more time have I, Mr. Speaker?

The SPEAKER pro tempore. The gentleman has four minutes and a half.

Mr. BURTON of Ohio. Oh, well, that is time enough.

Mr. WILLIAMS. Without any reference to the President's utterances at all and referring now to his deeds, the gentleman, a Representative of a district in the State of Ohio and the American people, gives his approval—

Mr. BURTON of Ohio. Oh, Mr. Speaker, I decline to yield to the gentleman from Mississippi for a speech.

Mr. WILLIAMS. I am not making a speech; I am asking a question—whether the act of the Executive establishing a commission without the authority of Congress—

The SPEAKER pro tempore. The gentleman from Mississippi is out of order. The gentleman from Ohio declines to yield.

Mr. WILLIAMS. The gentleman from Ohio had yielded.

Mr. BURTON of Ohio. I yielded for a question, but not for a four minutes' speech.

Mr. WILLIAMS. I asked a question—

Mr. BURTON of Ohio. I ask that the Speaker enforce the rules.

The gentleman from Mississippi says that the President has only the power of verbal expression. It would appear that the gentleman from Mississippi has only the power of verbal expression, and you are welcome to compare the two in their achievements. [Applause on the Republican side.] And yet, what was there in the President's remark after all? This Commission had been appointed. The members had been performing their work without pay, meeting their own expenses, and it was perfectly proper for the President of the United States to say that if the Congress omitted to make an appropriation, to give a legislative status to this body, then and in that case he would continue their work as it had been carried on before. [Applause on the Republican side.] He had a right to ask information or advice for his own assistance. There is no occasion for any sensitiveness about it.

I should not favor an Executive usurpation; but the President believed that this Commission had work as yet unfinished, believed that this work might properly be finished with benefit to the country through the information that would be obtained, and that its continuance would promote the general welfare. And, as one member of the Commission, I want to say that as we have volunteered our services in the past, we are willing to volunteer those services in the future if the Congress does not see fit to make appropriation for us.

Mr. BARTHOLDT. Will the gentleman yield?

Mr. BURTON of Ohio. Very briefly.

Mr. BARTHOLDT. We of the Mississippi Valley were largely comforted by the act of the President in appointing that Commission, believing, as we did, that it was due to our work in the last session, and we approve heartily of the President's act because we believe it has led to the action of Congress in the matter.

Mr. BURTON of Ohio. I do not want the gentleman from Missouri to claim all the credit for the creation of this Commission, for there are several other localities which desire some credit, and which deserve it. But there is credit enough for you all. It is evident you are all for it and that you all want it. While we may disappoint the gentleman from Mississippi and the gentleman from Missouri; while we may disappoint the Mississippi Valley and other localities, we hope to accomplish a work which shall be of value to the nation and shall bring more of order where now a degree of chaos exists. Mr. Speaker, I yield back the balance of my time.

Mr. STEVENS of Minnesota. Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. The gentleman has one minute.

Mr. STEVENS of Minnesota. Mr. Speaker, this bill was carefully re-formed by the Committee on Interstate and Foreign Commerce to bring it within the constitutional power of Congress, because we realized that there are some limits upon our authority. This bill carefully regards these limitations, gives this Commission all the work that is possible within these limits, requires a report to Congress, and then it will be our duty to pass upon that work. This is a Congressional commission as well as an Executive commission. It can give us most valuable information; it can make most valuable suggestions; its work does not go to one committee alone, but to half a dozen or more committees of this House, whenever that report shall come in next December, as we hope it may.

Mr. Speaker, I ask for a vote. [Applause on the Republican side.]

The SPEAKER pro tempore. The motion is to suspend the rules and pass the bill as amended.



Mr. ADAMSON. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken, and there were—yeas 226, nays 2, answered "present" 9, not voting 150, as follows:

## YEAS—226.

Acheson	De Armond	Hitchcock	Olcott
Adair	Denver	Holliday	Padgett
Adamson	Diekema	Houston	Parker, S. Dak.
Alken	Dixon	Howell, Utah.	Parsons
Alexander, Mo.	Douglas	Howland	Patterson
Allen	Draper	Hubbard, Iowa	Payne
Ansberry	Driscoll	Hubbard, W. Va.	Pearre
Ashbrook	Durey	Hughes, N. J.	Perkins
Barchfield	Dwight	Hull, Tenn.	Pollard
Barclay	Ellerbe	Humphrey, Wash.	Porter
Bartholdt	Ellis, Mo.	James, Addison D.	Pou
Bartlett, Nev.	Ellis, Oreg.	Jenkins	Pray
Beall, Tex.	Englebright	Johnson, Ky.	Pujo
Bede	Esch	Jones, Va.	Rainey
Bell, Ga.	Ferris	Jones, Wash.	Randall, Tex.
Bonynge	Finley	Kahn	Ransdell, La.
Booher	Floyd	Keifer	Reeder
Boutell	Focht	Kellher	Richardson
Bowers	Foster, Ill.	Kennedy, Iowa	Robinson
Boyd	Foster, Ind.	Kennedy, Ohio	Rodenberg
Brantley	Foster, Vt.	Kimball	Rothermel
Brodhead	French	Kinkaid	Russell, Mo.
Brownlow	Fuller	Kitchin, Claude	Russell, Tex.
Brumm	Fulton	Knapp	Sabath
Brundidge	Gaines, W. Va.	Knowland	Saunders
Burleigh	Garner	Lafean	Shackelford
Burton, Del.	Garrett	Lassiter	Sherley
Burton, Ohio	Gilhams	Lawrence	Sherwood
Campbell	Gillespie	Leake	Slayden
Candler	Gillett	Lever	Smith, Cal.
Capron	Glass	Lindbergh	Smith, Mich.
Carlin	Godwin	Longworth	Smith, Mo.
Carter	Goebel	Loudenslager	Sperry
Caulfield	Graff	Lovering	Spight
Chaney	Graham	Lowden	Stanley
Chapman	Granger	McCall	Steenerson
Clark, Mo.	Hackney	McGuire	Sterling
Cockran	Hale	McKinlay, Cal.	Stevens, Minn.
Cocks, N. Y.	Hall	McKinley, Ill.	Sullway
Cole	Hamilton, Iowa	McKinney	Sulzer
Cook, Colo.	Hamilton, Mich.	McLain	Tawney
Cook, Pa.	Hamlin	McLaughlin, Mich.	Taylor, Ohio.
Cooper, Pa.	Hammond	McMorran	Thistlewood
Cooper, Tex.	Hardy	Macon	Tirrell
Cooper, Wis.	Harrison	Madison	Tou Velle
Coudrey	Haskins	Maynard	Waldo
Cox, Ind.	Hawley	Moore, Pa.	Wanger
Craig	Hay	Moore, Tex.	Washburn
Crumpacker	Hayes	Morse	Watkins
Currier	Hedlin	Mouser	Weeks
Cushman	Helm	Murdoch	Wheeler
Dalzell	Henry, Conn.	Needham	Wilson, Ill.
Darragh	Henry, Tex.	Nelson	Wood
Davenport	Higgins	Nicholls	Woodyard
Davidson	Hill, Conn.	Norris	Young
Davis, Minn.	Hill, Miss.	Nye	
Dawson	Hinshaw	O'Connell	

## NAYS—2.

Clayton Stephens, Tex.  
ANSWERED "PRESENT"—9.

Bennet, N. Y.	Goulden	Knopf	Page
Broussard	Haggott	Lorimer	Small
Butler			

## NOT VOTING—150.

Alexander, N. Y.	Fornes	Langley	Reynolds
Ames	Foss	Laning	Rhinock
Andrus	Foulkrod	Law	Riordan
Anthony	Fowler	Lee	Roberts
Bannon	Gaines, Tenn.	Legare	Rucker
Bartlett, Ga.	Gardner, Mass.	Lenahan	Ryan
Bates	Gardner, Mich.	Lewis	Scott
Beale, Pa.	Gardner, N. J.	Lilly	Sheppard
Bennett, Ky.	Gill	Lindsay	Sherman
Bingham	Goldfogle	Littfield	Sims
Birdsall	Gordon	Livingston	Slemp
Bradley	Greene	Lloyd	Smith, Iowa
Burgess	Gregg	Loud	Smith, Tex.
Burke	Griggs	McCreary	Snapp
Burleson	Gronna	McDermott	Southwick
Burnett	Hackett	McGavin	Sparkman
Byrd	Hamill	McHenry	Stafford
Calder	Harding	McLachlan, Cal.	Sturgiss
Calderhead	Hardwick	McMillan	Talbott
Caldwell	Haugen	Madden	Taylor, Ala.
Cary	Hepburn	Malby	Thomas, N. C.
Clark, Fla.	Hobson	Mann	Thomas, Ohio
Conner	Howard	Marshall	Townsend
Cousins	Howell, N. J.	Miller	Underwood
Cravens	Huff	Mondell	Volstead
Crawford	Hughes, W. Va.	Moon, Pa.	Vreeland
Davey, La.	Hull, Iowa	Moon, Tenn.	Wallace
Daves	Humphreys, Miss.	Mudd	Watson
Denby	Jackson	Murphy	Webb
Dunwell	James, Ollie M.	Olmsted	Weems
Edwards, Ga.	Johnson, S. C.	Overstreet	Weisse
Edwards, Ky.	Klpp	Parker, N. J.	Wiley
Fairchild	Kitchin, Wm. W.	Peters	Willett
Fassett	Küstermann	Powers	Williams
Favrot	Lamar, Fla.	Fratt	Wilson, Pa.
Fitzgerald	Lamar, Mo.	Prince	Wolf
Flood	Lamb	Rauch	
Fordney	Landis	Reid	

So the motion was agreed to.

The Clerk announced the following additional pairs:  
Until further notice:

Mr. ALEXANDER of New York with Mr. BURLESON.  
Mr. ANDRUS with Mr. BURNETT.  
Mr. BATES with Mr. FAVROT.  
Mr. CARY with Mr. GAINES of Tennessee.  
Mr. CONNER with Mr. GORDON.  
Mr. FORDNEY with Mr. GREGG.  
Mr. FOWLER with Mr. GRIGGS.  
Mr. GARDNER of Massachusetts with Mr. JOHNSON of South Carolina.  
Mr. HEPBURN with Mr. LAMB.  
Mr. HUFF with Mr. LEE.  
Mr. LANGLEY with Mr. LEGARE.  
Mr. LOUD with Mr. LLOYD.  
Mr. MADDEN with Mr. MOON of Tennessee.  
Mr. OLMSTED with Mr. RAUCH.  
Mr. PRINCE with Mr. RUCKER.  
Mr. SLEMP with Mr. RYAN.  
Mr. STURGISS with Mr. WILEY.  
Mr. SMITH of Iowa with Mr. UNDERWOOD.  
Mr. TOWNSEND with Mr. WILLIAMS.  
Mr. MANN with Mr. SIMS.  
Mr. FAIRCHILD with Mr. SMALL.  
For the session:  
Mr. BRADLEY with Mr. GOULDEN.  
Mr. ANTHONY with Mr. BURGESS.  
The result of the vote was announced as above recorded.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. CROCKETT, its reading clerk, announced that the Senate had insisted upon its amendments to the bill (H. R. 20120) to authorize the construction of a railroad siding to the United States navy-yard, and for other purposes, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. CARTER, Mr. BURKETT, and Mr. MARTIN as the conferees on the part of the Senate.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 17506) to amend an act entitled "An act to simplify the laws in relation to the collection of the revenues," approved June 10, 1890, as amended by the act entitled "An act to provide revenues for the Government and to encourage the industries of the United States," approved July 24, 1897, disagreed to by the House of Representatives, had agreed to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon, and had appointed Mr. ALDRICH, Mr. ALLISON, and Mr. DANIEL as the conferees on the part of the Senate.

## CREATING IN MINNESOTA A NATIONAL FOREST RESERVE.

Mr. LINDBERGH. Mr. Speaker, I move to suspend the rules and pass the bill (S. 4186) with House amendments.

The SPEAKER. The gentleman from Minnesota moves to suspend the rules and pass the following Senate bill with House amendment. The Clerk will report the bill as amended.

The Clerk read as follows:

An act (S. 4186) creating in the State of Minnesota a national forest reserve consisting of certain described lands, and for other purposes.

Be it enacted, etc., That there is hereby created in the State of Minnesota a national forest reserve, consisting of lands and territory described as follows, to wit:

Beginning at a point where the north line of section 31 in township 148 north, range 28 west, fifth principal meridian, intersects the low-water mark of the lake formed by the waters of Third River; thence easterly along the north line of sections 31, 32, 33, 34, 35, and 36 in township 148 north, ranges 28 and 27 west, continuing easterly along the north line of section 31 in township 148 north, range 26 west, to a point where said line intersects the low-water mark of Bow String Lake on the west shore; thence southerly along the west side of said lake at low-water mark to a point where it crosses the section line between sections 16 and 17 in township 147 north, range 26 west; thence southerly along the section line on the east side of sections 17, 20, 29, and 32 in township 147 north, range 26 west, and continuing southerly along the east side of sections 5, 8, 17, 20, 29, and 32, township 146 north, range 26 west, continuing southerly along the east line of sections 5, 8, 17, 20, and 29, township 145 north, range 26 west, to a point at the low-water mark on the right bank of the Mississippi River on the section line between sections 28 to 29 in said township; thence southeasterly along the right bank of the Mississippi River at low-water mark to its confluence with Leech Lake River in section 12 in township 144 north, range 26 west; thence southwesterly along the right bank of Leech Lake River along the low-water mark to Mud Lake; thence along the line of low-water mark of Mud Lake on its northern and western shores to the point where Leech Lake River empties into the same on fractional section 32, township 144 north, range 26 west; thence up said river along the low-water mark on the right bank thereof to a point in fractional section 29 where the line intersects the low-water mark of Leech Lake; thence in a northwesterly and southwesterly direction following the contours of said lake at low-water mark to the point at low-water mark on the shore of said lake on the northeast boundary of the ceded Leech Lake Indian Reservation on section line between sections 5 and 8, township 143 north, range 29 west; thence in a southwesterly

direction following the contours of said lake at low-water mark to the point on said lake at the southwestern extremity of Ottertail Point; thence southwesterly in a direct line to the southern extremity of section 25 in township 143 north, range 31 west; thence in a westerly direction along the contour of said lake to the southwestern extremity of section 26 in said township; thence in a northerly and westerly direction along the contour of said lake at low-water mark to a point where the center line through section 2, running in a north and south direction in township 143 north, range 31 west, intersects the low-water mark of Leech Lake; thence northerly through the middle of said section 2 to the shore of a small lake at low-water mark; thence along the east shore of said lake at low-water line to a point where the section line between sections 35 and 36, township 144 north, range 31 west, intersects low-water mark of said lake on north shore; thence northerly on section line between sections 35, 36, 25, and 26 to the low-water mark at the shore of a small lake; thence northerly along the east side of said lake to a point where the section line between sections 25 and 26 intersects the low-water mark of said lake in said township; thence northerly along the east line of sections 26, 23, and 14 to a point on the east line of section 14, 20 chains north of the southeast corner of section 14; thence west 20 chains; thence north 20 chains; thence west 20 chains; thence northerly along the east side of a small lake to a point where the center line running in a north and south direction through section 14 intersects the north side of said lake at low-water mark; thence northerly along the center line of said section through section 11 to the quarter corner between sections 2 and 11 of said township; thence westerly to a point 20 chains west of the northwest corner of section 11; thence north 40 chains; thence west 20 chains; thence north to a point where the center line running in a north and south direction in section 3 intersects the township line between townships 144 and 145 north, range 31 west; thence westerly to the quarter corner on the township line in the southeast quarter of section 34 in township 145 north, range 31 west; thence north 20 chains; thence west 40 chains; thence north 20 chains; thence west 20 chains to the quarter corner between sections 33 and 34 in said township and range; thence northerly along the east line of sections 33, 28, 21, and 16 in said township to a point where it intersects the right of way of the Great Northern Railway as at present located; thence easterly along said right of way to a point where it intersects the shore of Cass Lake at low-water mark in section 15, township 145 north, range 31 west; thence northerly along the west shore of Cass Lake and the south, west, and north shore of Allens Bay and the northwest shore of Cass Lake to a point along the contour of said lake at low-water mark at the head of the Mississippi River, approximately in section 21, township 146 north, range 30 west; thence easterly along the right bank of said river to a point where the range line between ranges 29 and 30 west intersects said river; thence northerly along the range line to the northwest corner of section 19 in township 147 north, range 29 west; thence easterly along the north line of sections 19, 20, 21, 22, 23, and 24 in said township and along the north side of sections 19 and 20 in township 147 north, range 28 west, to a point where said line intersects the left bank of Third River at low-water mark; thence northerly along the right bank of Third River to the counter line at low-water mark of the lake formed by the waters of Third River; thence southeasterly and northerly along the contour line of said lake to the point of beginning; and it is the intent of this act to include in said national forest and make a part thereof all that certain territory and land which has heretofore been selected by the Forester of the Department of Agriculture as the ten sections situated in townships 144, 145, and 146 north, ranges 30 and 31 west of the fifth meridian in Minnesota, and designated as being the ten sections referred to and authorized to be selected by section 2 of the act approved June 27, 1902, being chapter 1157, United States Statutes at Large, volume 32, entitled "An act to amend an act entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota,'" approved January 14, 1889; and also all the islands in Cass Lake in the State of Minnesota.

And in addition to the lands and territory above described, the lands described by section 2 of said act of June 27, 1902, as follows: "One hundred and sixty acres at the extremity of Sugar Point, on Leech Lake, and the peninsula known as 'Pine Point,' on which the new Leech Lake Agency is now located," shall be included in and are hereby made a part of said national forest: *Provided*, That this act shall not in any manner abridge the right of citizens to the use of the west and northwestern shores of Cass Lake.

SEC. 2. The Secretary of the Interior is hereby authorized to proceed with the sale of the merchantable pine timber upon the above-described land outside of said ten sections and said islands and points, in conformity with the provisions of said act above entitled, and reserving 10 per cent of such timber from sale, said 10 per cent to be designated by the Forester of the United States Department of Agriculture; and as to the timber upon said ten sections and said islands and points, the said Forester is authorized, under such rules and regulations as he may prescribe from time to time to sell and dispose of so much of the standing timber thereon as he may deem wise and advisable in the conduct of a national forest: *Provided*, That a commission of three persons shall at once be appointed, consisting of one person to be designated by the President, one by the Secretary of the Interior, and one by a general council of the Indians of the Winibigoshish, Cass Lake, Chippewas of the Mississippi Reservation, and Leech Lake Reservation, to be held under the direction of the agent at Leech Lake Indian Agency; and said commissioners shall proceed forthwith to appraise the value of the 5 per cent of timber heretofore reserved from sale by the provisions of said act entitled "An act to amend an act entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota,'" approved January 14, 1889, and the 10 per cent hereafter reserved under the provisions of this act, and the timber upon said ten sections and upon the unappropriated lands on said islands and points, and shall ascertain the acreage of actual land included under the provisions of this act and to the estimated value of said 5 per cent of timber reserved under the said act entitled "An act to amend an act entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota,'" approved January 14, 1889, and the 10 per cent reserved under this act and the estimated value of timber upon said ten sections and upon the unappropriated lands on said islands and points, to the sum of the values of the timber so estimated shall add an amount equal to \$1.25 for each and every acre of land not otherwise appropriated which they find covered by the provisions of this act, and shall certify the same to the Secretary of the Interior. The Indians designated in this section, acting through a representative who shall serve without compensation, to be named by them at the time of their appointment of the commissioner herein, shall have sixty days in which to appeal to the President of the United States from the findings of said commissioners, as certified to the Secretary of the Interior. At

the end of said sixty days, if no appeal has been taken or if an appeal has been taken, then, upon the determination thereof by the President, the Secretary of the Interior shall certify the amount found by said commissioners, or if modified by the President the amount determined by him, to the Secretary of the Treasury, who shall thereupon place such amount to the credit of all the Chippewa Indians in the State of Minnesota as a part of the permanent fund of said "All of the Chippewa Indians in the State of Minnesota," provided for in an act of Congress entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," approved January 14, 1889, and the acts supplementary thereto, and the amounts so certified to the Secretary of the Treasury shall draw interest at the rate of 5 per cent per annum, pursuant to the terms of said acts.

SEC. 3. That any Indian having an allotment within the limits of the national forest created by this act is hereby authorized to relinquish such allotment and permitted to take another allotment in lieu thereof outside such national forest, under the direction of the Secretary of the Interior; and the allotments of any deceased Indians located within the boundaries of said national forest shall not hereafter be disposed of under section 7 of the act of June 27, 1902 (vol. 32, Stat. L., p. 245); but the heirs of said deceased Indians shall have the right, with the consent of the Secretary of the Interior and under such rules as he may prescribe, to relinquish to the United States the lands covered by such allotments and to select surveyed, unappropriated, unreserved land within the limits of any of the ceded Indian lands in the State of Minnesota and outside of the national forest hereby created in lieu of the land covered by such allotments; and the lands so relinquished by the Indians or their heirs shall thereupon become part of the said national forest. And the Secretary of the Interior is hereby authorized on request of the Forester of the Department of Agriculture to purchase such relinquishments from said Indians or their heirs and to pay for the same from any moneys received, after the appraisal of timber herein provided for, on account of the sale of timber from the national forest hereby created, or from the sale of any other products or the use of any lands or resources thereof.

SEC. 4. That all land in any of said reservations, the Winibigoshish Indian Reservation, Cass Lake Indian Reservation, Chippewas of the Mississippi Reservation, or Leech Lake Indian Reservation, not included in the national forest hereby created as above described, heretofore classified or designated as agricultural lands, is hereby declared to be open to homestead settlement; and any of said land which has been classified as timber land shall be open to homestead settlement as soon and as fast as the timber is removed therefrom, in conformity with the homestead law, except that none of said lands shall be disposed of except on payment of \$1.25 per acre.

SEC. 5. That all moneys received from the sale of timber from any of the lands set aside by this act for a national forest, prior to the appraisal herein provided for, including all moneys received for timber under sales made by the Secretary of the Interior as authorized by existing laws and section 2 of this act, shall be placed to the credit of the Chippewa Indians in the State of Minnesota, as provided for in an act of Congress entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," approved January 14, 1889, and the acts supplementary thereto, and shall draw interest at the rate of 5 per cent per annum, pursuant to the terms of said acts; and after said appraisal the national forest hereby created, as above described, shall be subject to all general laws and regulations from time to time governing national forests, so far as said laws and regulations may be applicable thereto.

SEC. 6. That the commissioners provided for herein shall receive a compensation of \$10 per day each for each and every day actually spent upon the work herein provided for, which shall be paid out of any money in the Treasury of the United States not otherwise appropriated, and no commissioner shall be paid for more than ten days' service.

SEC. 7. None of the Indian graves now upon any of the islands or points referred to in this act shall be disturbed and the Indians shall continue to have the right to bury their dead at such places as they have heretofore used for that purpose, under the rules and regulations to be prescribed by the Forest Service.

SEC. 8. That nothing in this act contained shall in any manner bind the United States to purchase any of the land in said reservations excluded from the reserve created by this act, or to dispose of said land, except as provided by the act of January 14, 1889, entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," and an act of June 27, 1902, entitled "An act to amend an act for the relief and civilization of the Chippewa Indians in the State of Minnesota," or the provisions of this act; or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of the said lands and the timber thereon, and to dispose of the proceeds thereof, as provided in said acts, only when received from the sale of the timber, and the lands, as therein provided.

Amend the title so as to read: "An act amending the act of January 14, 1889, and acts amendatory thereof, and for other purposes."

The SPEAKER. Is a second demanded?

Mr. WILLIAMS. A second is demanded, Mr. Speaker.

The SPEAKER. Under the rules a second is ordered. The gentleman from Minnesota [Mr. LINDBERGH] is entitled to twenty minutes and the gentleman from Mississippi [Mr. WILLIAMS] is entitled to twenty minutes.

Mr. LINDBERGH. Mr. Speaker, in 1889 Congress passed what was known as the "Nelson Act," which authorized the appointment of a commission of three by the President of the United States to confer with the Chippewa Indians in the State of Minnesota for the relinquishment of all their reservations except certain parts of White Earth and Red Lake reservations. The Commission was appointed under that act by the President, and in 1890, after many conferences with the Indians, they ceded all of the lands to the United States, and those lands were thrown open to settlement where they were agricultural lands, and timber lands were subject to the sale of the timber on the land and after the timber should be removed the land should be open to settlement, to be paid for by the homesteaders at the rate of \$1.25 an acre. A part of this land was disposed of under the Nelson Act. In 1902



there was passed by Congress what is known as the "Morris Act." That act provides that there should be a forest reserve amounting to approximately 235,000 acres carved out of the lands remaining at that time.

Under the Nelson Act the village of Cass Lake was established on the shores of Cass Lake. A land office was there established and the village grew to have about 1,500 people. When this Morris Act was passed the Forestry Commission selected the 235,000 acres immediately adjoining the village, so as to cut out the residents of that village from the advantages of the settlement of the country adjacent. There was no provision made in the Morris Act for a settlement with the Indians for the lands which were taken for this forest reserve. The object of the present bill is to reduce that forest reserve by something like 70,000 acres and open those 70,000 acres for settlement—that is, the agricultural lands therein. Whatever timber lands there may be that have pine on them the timber is to be sold off the land at public auction, after it is appraised, at not less than \$5 a thousand. As a matter of fact the timber on other parts of the reservation under the auction sales, I think, have sold as high as \$11 a thousand.

There is to be retained in this reservation 10 per cent of the timber, which, I think, are known as "mother" trees, for re-seeding the ground, and that will conserve the forest. These lands are at the head of the Mississippi River and are suited for that purpose. There are many lakes there that the forest will conserve the waters in. This act of 1902 stopped all progress of the settlement of that country and appropriated this land without making any provision for settlement with the Indians. If this act passes it authorizes a credit to the Indians for these lands at the rate which was established to be paid by the settlers, \$1.25, after they have lived upon the land and proved up under the homestead laws. The Indians have been dissatisfied all the time since the Morris Act was passed on account of the holding up of this land without any provision whatever being made for them. The Government will have to pay for the 10 per cent reserve of timber at the appraised value, and after that, of course, what remains will be a part of the reserve, and as the timber may be disposed of on that, under the Forestry Commission, whatever that brings will be credited to the Forestry Department. This is a plain statement of the facts that are covered in this bill.

Mr. Speaker, in a general way I doubt the early effectiveness of acquiring forest reserves and placing them under the absolute exclusive supervision of the Government to the exclusion of everything and everybody. I believe the policy should be materially changed so as to look forward to a broad policy of general supervision of all forests, public and private, by a regulation of the cutting of the timber and the prevention of destruction by fires, something along the lines established in the Scandinavian, German, and in some of the other progressive countries.

I know the question will be raised as to the right of the General Government to interfere with the individual ownership of private property. The discussion of the legal question is immaterial with this bill; but in passing I can not refrain from saying that it is everywhere conceded that the preservation of the forests is material to the general good, not only for a uniform and permanent supply of timber, but also to attract moisture and thereby in a measure regulate the water fall. If that is admitted, and it seems that it must be, it follows that the preservation of the timber is of such general importance that the regulation of its cutting is within the constitutional control of the Government.

If the private ownership has divested the Government of the immediate right to directly interfere in the regulation of the removal of timber from the forests, it still has the right of eminent domain to accomplish that which is universally required. The Government has the power to do anything essential to the general public. If it can not now fix rules and regulations for the cutting and general care of timber on private lands, it may acquire that right through condemnation proceedings, and as it would not be the policy to appropriate the ownership, but merely to regulate the manner of its use, and that for the purpose of conserving the timber, the measure of damages for such control would not be so great as to seriously threaten the Government Treasury. On the contrary, such a system would be far less expensive than that which is now in contemplation by the Forestry Department.

The Government can not in the present condition of things take the exclusive ownership of sufficient forests to serve the needs of the country with such effectiveness as may be done by regulating the removal of timber from all forests.

It is one thing to conserve timber already growing in the diversity of stages from the first germination of the seed

through to the matured tree, and quite another to plant and cultivate forests or preserve an ample supply by acquiring the exclusive ownership of special forests. Under the latter system there must be carved out selected districts to the detriment of adjacent communities, and these districts of necessity are far removed from the people in general, while under the former system the forests will continue interspersed as nature originally contributed to us.

I do not consider that we are justified in levying a tax upon the general public to conserve forests in ordinary places for park purposes, to cater to the enjoyment of a comparative few who can afford to make long trips to visit these reserves. I do not of course complain of, but prefer, to approve the maintenance by the nation of the great natural, beautiful scenery spots of our country, like the Yellowstone, Yosemite, and several other places, some of much lesser note and magnificence. But I do not believe in creating at general expense park systems, except under exceptional conditions, where they are not practically available to the general public.

I now yield five minutes—

Mr. HAMMOND. Will the gentleman yield for a question?

Mr. LINDBERGH. I will yield to the gentleman.

Mr. HAMMOND. How many acres are there in the forest reserve now?

Mr. LINDBERGH. Two hundred and thirty-five thousand.

Mr. HAMMOND. How many acres are supposed to be opened for settlement under this bill?

Mr. LINDBERGH. Approximately 70,000 acres.

Mr. HAMMOND. The balance will remain in the forest reserve?

Mr. LINDBERGH. The balance will remain in the forest reserve as originally provided.

Mr. HAMMOND. And what is the character of the 70,000 acres of land which is now proposed to be opened for settlement?

Mr. LINDBERGH. That is partly agricultural land and partly timber, pine of the various kinds that grow out there.

Mr. HAMMOND. Do you know what proportion of it is covered with pine?

Mr. LINDBERGH. I do not, but a considerable portion of it.

Mr. HAMMOND. Why is there any pine land included in the land to be opened for settlement? Why is more than agricultural land included?

Mr. LINDBERGH. Because they have selected out one compact body that includes more or less pine land. This compact body is around the village of Cass Lake.

Mr. HAMMOND. Is all the land near Cass Lake?

Mr. LINDBERGH. Cass Lake village. There are ten sections that are already made reserve around Cass Lake.

Mr. HAMMOND. Can the gentleman state the number of acres of the pine land included in the 70,000 acres to be opened for settlement?

Mr. LINDBERGH. I can not.

Mr. BEALL of Texas. Will the gentleman yield?

Mr. LINDBERGH. I will.

Mr. BEALL of Texas. I understand that this land at this time belongs to the Government.

Mr. LINDBERGH. At this time it belongs to the Government under the treaty—

Mr. BEALL of Texas. This land is situated at the headwaters of the Mississippi River?

Mr. LINDBERGH. This land is situated at the headwaters of the Mississippi; yes.

Mr. BEALL of Texas. And under the bill that you have called up you make provision for the cutting of the greater part of the timber upon these 70,000 acres?

Mr. LINDBERGH. That has mostly been cut already.

Mr. BEALL of Texas. Now, how can you reconcile your proposition with the general effort that is being made all through this country to try to conserve or preserve these forests?

Mr. LINDBERGH. The legal rights in this case were fixed by the Morris Act, and we are simply increasing by this act the amount of timber that the forest reserve people can maintain. Under the Morris Act it was 5 per cent, which was established, and in this act it is 10 per cent.

Mr. BEALL of Texas. Yet you are providing for the cutting of the greater part of this timber. The gentleman is aware of the fact that bills are pending here before Congress now asking the United States Government to buy millions of acres of land in order that the forests may be preserved, and looking to the protection of navigable streams?

Mr. TAWNEY. If the gentleman will permit me, I will say that the timber authorized to be cut does not belong to the United States.

Mr. BEALL of Texas. To whom does it belong?

Mr. TAWNEY. To the Indians.

Mr. STEPHENS of Texas. I will state further that it is merchantable timber, as I understand it.

Mr. TAWNEY. It is what the expert foresters call ripe timber.

Mr. LINDBERGH. A large part of this land is in the district of my colleague [Mr. STEENERSON], and I yield five minutes to him.

Mr. STEENERSON. Mr. Speaker, this is a very meritorious bill, and I think the gentlemen who have asked these questions are not familiar with its provisions and with the history of the legislation concerning these lands. In 1889 all of these lands were ceded by the Indians to the United States in trust for the Indians. The act provided that they should be examined and classified into two arbitrary classes, namely, all lands containing any pine trees were classified as pine lands. If there were only one tree on any subdivision of a section, it would be classified as "pine land." The other lands were classified as "agricultural land." The bill provided that all agricultural land should be opened to homestead at \$1.25 an acre, and the Indians should get the \$1.25. As to the pine trees, they were to be appraised and sold at a minimum price, in the original bill, of \$3 per thousand, but in the amended bill of 1902 at the minimum price of \$4 and \$5 a thousand, according to whether it was Norway or white pine.

Mr. STEPHENS of Texas. Will the gentleman permit me to ask a question?

Mr. STEENERSON. Certainly.

Mr. STEPHENS of Texas. With reference to cutting that timber, it was only the matured timber that was to be cut? Am I correct in that?

Mr. STEENERSON. I think so. I will explain further. The timber was originally sold with the land, but in the Morris Act of 1902, these lands not having been disposed of, having been held back for the reason that the Government desired to have them disposed of under another plan, which plan was provided for in the act of 1902, by which the Secretary of the Interior was to sell the pine on a bank scale. That bill was the first law that contemplated a separation of the trees from the land, so that the Secretary of the Interior was to sell the timber at an estimate, and then when the logs were cut they were scaled by Government scalers and paid for according to the number of feet in the bank scale. The Indians got all the proceeds. Then, when the timber was all cut off, the lands were subject to homestead at \$1.25 an acre, and the Indians were to get that.

But the Morris Act provided, in the spirit that now is popular, to conserve the forests by reserving 200,000 acres of the finest pine lands up there as a forest reserve, although, as you have seen from my statement, the Indians owned both the land and the pine, which was simply held in trust for them by the Government, to be disposed of as above indicated. On this forest reserve 5 per cent of the pine trees were to be left for reforestation, and also all the pine on the islands in Cass Lake, which are timbered with beautiful trees, and also on ten sections of land surrounding the lake, also timbered with pine. The boundaries of the reserve were not fixed in the law, but were to be marked out by the Forestry Service. Then all the other pine—that is, 95 per cent of the trees outside of the islands and the ten sections—were to be sold at auction and at bank scale, as I have stated, and that has largely been done and the timber removed, except the ten sections and the islands and another section where the agency is located. On these not a pine tree has been touched.

Now, then, the question arose, Who shall compensate the Indians for their property? Of course after the Indians had ceded these lands to the United States, to be disposed of as indicated and the proceeds placed to their credit, the United States should not, contrary to the treaty, appropriate their property permanently as a forest reserve. The Government could not equitably establish a permanent forest reserve out of somebody else's property. So this bill comes in here and says that the 5 per cent left standing shall belong to the Government and be a part of the permanent forest reserve and the uncut timber shall be preserved for the future and only used under the administration of the Forest Service.

There is a commission appointed by this bill, one representative to be selected by the Indians interested in this property and the other two by the Secretary of the Interior, who are to appraise the value of the remnant of the pine—that is, the uncut portions—and the Indians are to be credited in their trust funds with the amount of that appraisement. Now, the forest reserve, which was originally 220,000 acres, is diminished by this bill, as has been shown, about 60,000 or 70,000

acres. Those 60,000 or 70,000 acres are in the immediate vicinity of Cass Lake. Now, I want to make myself clear on the question asked by the gentleman from Minnesota [Mr. HAMMOND], who is familiar with the whole matter, being a member of the Committee on Public Lands; and I will state to him that the 70,000 acres that are thrown open to settlement by this act—

The SPEAKER. The time of the gentleman has expired.

Mr. LINDBERGH. How much time have I left?

The SPEAKER. The gentleman has five minutes remaining.

Mr. LINDBERGH. I reserve the balance of my time.

The SPEAKER. The gentleman from Mississippi.

Mr. WILLIAMS. Do you want a minute or two?

Mr. STEENERSON. I would like to have a minute or two more.

Mr. WILLIAMS. I yield two minutes to the gentleman.

Mr. STEENERSON. I desire to say in the time allotted to me by the gentleman from Mississippi that these 70,000 acres that are open to settlement are perhaps some of them pine lands, but under the original act that pine will be sold, and will be sold at auction, and then will be measured by bank scale, and the Indians will get every dollar that they will bring at a correct measurement. Then the land, after the pine is removed, is subject to homestead at \$1.25 an acre. So that there is no pine to be disposed of on the land under the homestead law. That comes in the other provision, and I think it answers the question of the gentleman from Minnesota [Mr. HAMMOND]. I will say, in conclusion, that this is a very meritorious measure, which will preserve the forest at the headwaters of the Mississippi, and the interests of the Government are very carefully guarded.

Mr. WILLIAMS. I yield five minutes to the gentleman from Missouri [Mr. HACKNEY].

Mr. HACKNEY. Mr. Speaker, being on the subcommittee of the Committee on Indian Affairs which investigated this bill when it came before that committee, I took occasion to familiarize myself somewhat with the situation.

The title of this bill is a little misleading. It is not an act creating a national forest. The national forest was created under the act of June 27, 1902.

In 1889 Congress provided for opening this reservation to settlement after allotment to the Indians. Then before the lands were disposed of under that act the other act was passed, which set apart as a national forest reserve substantially all the lands mentioned in this bill, making in the aggregate about 235,000 acres of land. Provision was made for cutting timber, as has been stated by the gentleman from Minnesota, leaving a sufficient quantity to cover the timber lands. Now, as has been stated, there has been considerable difference of opinion and considerable conflict, you might say, in the matter of adjusting the national forests with the settlements there.

For instance, on the west side of the reservation towns have grown up, and by reason of the existence of the forest reserve they have been shut out entirely from any source of income or trade, and this condition is sought to be remedied by this legislation. There is an ample quantity left after reducing the limits of the forest reserve, and Mr. Pinchot, the Forester, after a thorough examination of the matter, suggested that change. Therefore the bill throws open to settlement about 70,000 acres on the west side. The lines marked in red on this map which I have here indicated the boundaries as they were, but they have been changed somewhat.

Mr. TAWNEY. Almost all of that 70,000 acres is agricultural land, is it not?

Mr. HACKNEY. Yes; that fact was shown to the committee.

Mr. TAWNEY. It is not forest?

Mr. HACKNEY. It is not land proper for a forest reserve. Now, if it were an original proposition to buy land for a forest reserve, there might be a difference of opinion as to the constitutional power of the Government; but here are the Indian lands which were opened to settlement in 1889, and then Congress passed the act of 1902, stopping the settlement and setting apart those lands for forest-reserve purposes. The simple proposition comes up to us now, Shall we pay for what we have got? We have this national forest; it is a forest reserve created by that act; the land is in the possession of the Government, as the act of 1902 provides that from the time of taking over it should thenceforth be a national forest reserve, the same as though created by any other act of Congress or by proclamation. This is a simple process of getting out of a somewhat complicated and unpleasant situation there with respect to the Indian rights, on the one hand, and the rights of settlers on the other, and the question of good faith of the Government as well.



Mr. TAWNEY. It is true, is it not, that the question of the boundary of this reserve has been in dispute between the citizens of that part of the State of Minnesota and the forest-reserve officials ever since the act was passed or the forest reserve selected under it?

Mr. HACKNEY. That statement is correct, and this settles that dispute entirely. This bill establishes the boundary by metes and bounds, so that there will be no further question in the future. Every matter relating to the timber and its growth has been thoroughly safeguarded along lines wholly suggested by the Forester himself, so that the friends of national forests ought not to feel any apprehension about passing this bill.

Mr. STEENERSON. Has this proposition been entirely approved by the Forest Service?

Mr. HACKNEY. Yes.

Mr. STEENERSON. And the boundary fixed by them?

Mr. HACKNEY. Fixed by Mr. Pinchot and Senator CLAPP. That proof was submitted to the Indian Affairs Committee. I believe that the bill is in every respect meritorious and ought to pass, and therefore I favor it.

Mr. SAUNDERS. Mr. Speaker, I think from the character of the questions asked about this bill there is some misapprehension in regard to its provisions on the part of a portion of the Members of this House. The land that will be included in the forest reserve has, in large measure, been selected heretofore, but the formal establishment of the forest reserve is made by this bill. As to different portions of the forest reserve, there are different timber cuts provided for. On the largest proportion of the tract the timber cut is 95 per cent, leaving 5 per cent to be paid for by the Government. On another portion of the tract the timber cut is 90 per cent, leaving 10 per cent to be paid for by the Government. On another portion, a much smaller proportion of the whole, all the timber is reserved by the Government for forest purposes, and all of this timber will be paid for by the Government.

There is, then, carried on the part of this measure two liabilities—the liability of the Government for the land and the liability of the Government for the timber—and the terms under which the timber and the lands are to be paid for are all provided in the bill. So far as the land is concerned, the Government pays for that at the rate of \$1.25 per acre, and so far as the timber is concerned for which the Government assumes liability to the Indians, the value of that is to be fixed by a commission to be appointed according to the terms of this measure.

This reserve lies at the headwaters of the Mississippi River, and if there is any portion of the United States where a forest reserve ought to be established, it is in the land about the sources of this mighty stream.

This is not an original proposition, as has been stated by the gentleman from Missouri, for the purchase of land for a forest reserve, but it is a sequestration of an Indian reservation for this purpose, and as the Government takes the Indian reservation, as a matter of course, the Government will pay the Indians for the land taken.

Now, as to the original designation of the land for a forest reserve, that was under the acts heretofore passed by this House, but the formal establishment of the forest reserve is by the act that we are now considering.

As to that portion of the land on which all of the timber is reserved by the Government, the bill provides that the cutting on this land shall be conducted under the direction of the Forester of the Government, so that the whole purposes of the bill are entirely meritorious, and the rights of the contracting parties—that is, of the Indians and of the United States—are amply conserved, and as to the remainder of the lands thrown open for settlement, the Government acts as trustee for the Indians for the purpose of making a sale, but in no sense will it assume any liability to purchase any of the land directed to be sold.

It seems to me, Mr. Speaker, upon the statement of the facts of the case, that the misapprehensions indicated by some of the questions propounded should be removed, and that this bill, which in all respects perfectly safeguards the rights of both the Indians and of the United States, and which merely carries out a contract heretofore made between the Government and these Indians, ought to be passed by this House. [Applause.]

Mr. WILLIAMS. Mr. Speaker, the other day the Chair ruled that under the peculiar special rule under which we are operating a motion to suspend the rules "suspended all rules." But for that ruling I should not have presumed that a motion to suspend the rules suspended the rules of courtesy and decency prevailing between Members of Congress and gentlemen on the floor.

There is a rule of the House which in substance is:

When a gentleman desires to interrupt another who is speaking, he shall rise and respectfully address the Chair and announce that he desires to interrupt, and the Chair shall say, "Does the gentleman from — yield to the gentleman from —?"

A moment ago, upon page 335 of the reporter's notes, as sent from the House stenographer's room to me, the gentleman from Mississippi [Mr. WILLIAMS] rose and turning himself to the gentleman in the chair, temporarily taking the Speaker's place, Mr. DALZELL, of Pennsylvania, said, "Mr. Speaker." The gentleman from Ohio [Mr. BURTON] continued to speak, and the Speaker in the chair paid no attention to the gentleman from Mississippi. Whereupon the gentleman from Mississippi, further along after more remarks from the gentleman from Ohio, said, for the second time, obeying the rule, "Mr. Speaker." The gentleman in the chair still ignored the gentleman from Mississippi and disobeyed the rule of the House, which made it his duty to ask whether the gentleman from Ohio consented to the interruption of the gentleman from Mississippi, whereupon the gentleman from Mississippi for the third time addressed the Chair, respectfully claiming attention, and said: "Mr. Speaker."

The Speaker pro tempore, the gentleman from Pennsylvania [Mr. DALZELL], paid no attention to that, whereupon the gentleman from Ohio said:

How much more time have I, Mr. Speaker?

This was after the third respectful attempt to get the attention of the Speaker pro tempore, without any notice by the Chair, although the Speaker pro tempore had each time heard. The Speaker pro tempore replied:

The gentleman has four minutes and a half.

Whereupon the gentleman from Ohio replied:

Oh, well, that is time enough.

Time enough for what? I presume, if he meant anything, to hear and answer the question which the gentleman from Mississippi [Mr. WILLIAMS] desired to propound. Whereupon the gentleman from Mississippi, according to the RECORD, said:

Without any reference to the President's utterances at all and referring now to his deeds, does the gentleman, a Representative of the people of a district in the State of Ohio—the American people—give his approval—

And there he was interrupted by the gentleman from Ohio, who said:

Oh, Mr. Speaker, I decline to yield to the gentleman from Mississippi for a speech.

Whereupon the gentleman from Mississippi said:

I am not making a speech. I am asking a question—whether the act of the Executive establishing a commission without the authority of Congress—

And there he was again interrupted by the Speaker pro tempore, not by the gentleman from Ohio, the gentleman from Ohio having consented to an interruption publicly. The Speaker pro tempore says:

The gentleman from Mississippi is out of order. The gentleman from Ohio declines to yield.

The gentleman from Mississippi replied, as was the truth, proven by the RECORD read:

The gentleman from Ohio has yielded.

Whereupon the gentleman from Ohio replied:

I yielded for a question, but not for a four-minute speech.

Now, Mr. Speaker, this statement of the gentleman from Ohio [Mr. BURTON] conveyed in it two absolutely—I want to be altogether parliamentary and not use language which, though true, might be insulting—incorrect statements. The first was that I was trying to make a speech, when I was not, but was making a brief and simply inquiry, as the RECORD discloses; and the second incorrect statement was that I was four minutes in doing so.

I have since read over aloud to myself, timing myself by my watch, all of my remarks made, including the last one, saying that "the gentleman from Ohio had yielded," which took more time than the obviously plain language necessary to couple my question, and it was one-eighth of a minute less than one minute. In other words, the gentleman, after yielding for a question, when the question was sufficiently completed to be made known to him, shut me off so that he could evade a reply under the pretense that I was taking four minutes when I was taking seven-eighths of one minute, and under the pretense that I was trying to interpret a speech, which was obviously not a fact. Now, if there is a Member of this House who believes that the President of the United States, as the Executive, has the right to establish a commission without any authority—independently of his utterances in subsequently saying he would continue it in existence whether Congress consented or not—or who denies that he did thus illegally establish a commission, I

challenge that gentleman to arise upon his feet at this or any time and go to the people of his district in indorsement of that piece of Executive usurpation or in denial of the fact.

I am not, however, now so much dwelling upon the fact that the gentleman from Ohio evaded a reply and, after yielding, refused to answer, nor upon the action of the gentleman temporarily in the chair, who took the bit into his own mouth and decided that the gentleman had not yielded, after he had yielded, as I am upon a grave and important question of courtesy between Members upon this floor. Mr. Speaker, I never refused to yield upon the floor except by replying courteously and politely to the request that I either did not have time or did not desire to yield; but after I have yielded I have always yielded in good faith and have answered, or attempted to answer, the question. The statement that I was either taking "four minutes" or "making a speech" is absolutely incorrect, as the record shows, and was incorrect, as the gentleman from Ohio [Mr. BURTON] knew, and was incorrect as the gentleman occupying the Speaker's seat at the time also did know, or else would have known if he had been watching the proceedings of the House.

Mr. Speaker, I submit that however partisan we may be upon this floor, we do not by any special rule suspend the rules of courtesy and decency between Members in connection with interruptions. If the gentleman from Ohio [Mr. BURTON] had desired not to submit to an interruption, his method of procedure was plain. He could have said, "On account of the brevity of time allotted me," or on account of anything or nothing—he need not have given any reason—"I decline to be interrupted." But in way of bravado and insolent challenge he asked, "How much time have I left?" and, the Speaker pro tempore having replied "Four minutes and a half," he replied contemptuously, "Oh, well, that is time enough." Whereupon the gentleman from Mississippi, being informed that it was time enough, made his interrogatory, or proceeded to try to make it, and was substantially at the end of it when the gentleman from Ohio said that he declined to yield "for a speech."

Mr. Speaker, upon the merits of this particular bill, for fear my position in demanding a second may be misunderstood, I understand from the gentleman from Texas [Mr. STEPHENS], who has had long service upon the Indian Affairs Committee, who is thoroughly honest and absolutely careful and very industrious in the investigation of all bills before the committee, that the bill ought to pass, and I shall vote for it. I have merely taken this much of my time for the purpose of dwelling upon the incident which happened and calling the attention of the House to it. Mr. Speaker, I will not be accused by any Member upon the Republican side of this House even, no matter how bitter partisan feeling may have become, of ever having been discourteous. I have read the Record. Those are the reporter's notes. Subsequently the gentleman from Ohio [Mr. BURTON] made a few remarks about my "lack of achievement," and in that reference, I suppose, intended an arrogation of very much achievement, or at least of superior achievement, upon his own part, because he is not the sort of a man, as I take it, who would indulge in violating the old axiom that "the pot ought not to call the kettle black."

I am willing to stand before the country in some degree of comparison with the gentleman from Ohio [Mr. BURTON] as regards "achievements." Neither one of us has ever achieved much that I know of, but I, at any rate, never achieved defeat in a candidacy for mayor of my own village with the Federal Administration behind me as he did. [Groans on the Republican side]. And if I had ever run for the place of mayor of the town in which I live, I believe the people of my town might possibly have elected me to that office.

[Here the hammer fell.]

Mr. WILLIAMS. Did the Speaker strike for the purpose of permitting some gentleman to interrupt me or because my time had expired?

The SPEAKER. The Chair was in error. The gentleman has one minute remaining.

Mr. WILLIAMS. Mr. Speaker, I heard several remarks, either intelligent or groans, I am not certain which, upon the other side of the aisle about the time the hammer fell. Is there one over there who has a bona fide interrogatory or courteous request to make of me?

Mr. DOUGLAS. Mr. Speaker, I will make one inquiry of the gentleman. He quoted one well-known metaphor. Does not he know another one that is equally as well known and usually quoted in Latin, "de gustibus non est disputandum?"

Mr. WILLIAMS. Yes; and I know the English, free dog-Latin translation of it, given by a man who knew no classics, "concerning disgusting and discourteous things there need be

necessarily no dispute." [Applause on the Democratic side.] That is dog translation, but it is, for this case, tolerably good.

Mr. LINDBERGH. Mr. Speaker, there being no opposition to the bill, I shall now yield the rest of my time to the gentleman from Minnesota [Mr. TAWNEY].

Mr. BURTON of Ohio. Will the gentleman yield two or three minutes to me?

Mr. TAWNEY. How much time does the gentleman desire?

Mr. BURTON of Ohio. Two or three minutes.

Mr. TAWNEY. I yield three minutes to the gentleman from Ohio.

Mr. BURTON of Ohio. Mr. Speaker, I regret that the gentleman from Mississippi should be suffering from so discontented a spirit to-day. I trust he will regain his equanimity and his temper, and then we shall proceed with the orderly and rational transaction of business. When I had four minutes remaining, and desired to explain a bill before the House, of importance to the country, I yielded to the gentleman from Mississippi for a question. According to his own admission he had proceeded for one minute, lacking one-eighth, and the indications were that, like the brook, he would go on forever. [Applause and laughter on the Republican side.]

Mr. WILLIAMS. There was no indication of that sort.

Mr. BURTON of Ohio. On those indications it seemed to me I was not under any obligation to yield any longer time. What may have happened at the beginning with reference to the failure of the Speaker pro tempore to recognize him for a question I do not recall, or did not notice, but, as regards the latter part of the interruption, I take the full responsibility myself [applause on the Republican side], because I declined to yield further.

I am unwilling to enter into any discussion with the gentleman from Mississippi about our achievements. Whatever we may have done, whatever modest results may have come from our work, are for the House and the country to determine. We are all equals here, and I must suggest to the gentleman from Mississippi that it is not in accordance with orderly and fair proceeding, when a colleague of his in this House has but four minutes remaining, to exhaust one-fourth of that time in a question and then to go on with no sign that there would ever be any termination of what he has to state. In conclusion, I want to say that I trust the gentleman from Mississippi will consider this incident dispassionately. I assure him that it shall cause no ill will on my part toward him, but I am convinced that I was justified in insisting upon my right not to be further interrupted.

Mr. WILLIAMS. Will the gentleman submit to an interruption now?

The SPEAKER. Does the gentleman yield?

Mr. BURTON of Ohio. I do, but I want to make the reservation again that it must be a question.

Mr. WILLIAMS. It is a question, but do not take it for granted it is not beforehand. Does not the gentleman remember that less than two minutes ago that with one minute at my disposal I yielded to the gentleman from Ohio [Mr. DOUGLAS] for a question which involved three-fourths of that one minute?

Mr. BURTON of Ohio. The gentleman from Mississippi may have had nothing to say, or nothing of importance, so that he could yield. [Laughter and applause on the Republican side.]

Mr. TAWNEY. Mr. Speaker, the personal incident between the gentleman from Mississippi and the gentleman from Ohio having been now closed, I simply want to recall to the minds of the Members of the House the fact that there is a bill before us, upon which we are about to vote, for the permanent establishment of the boundaries of a forest reserve in the State of Minnesota. This reserve was created under the act of 1902, which boundaries at that time were indefinite and left largely to the discretion of the Department. The bill has been unanimously reported from the Committee on Indian Affairs. It opens to settlement about 70,000 acres of agricultural lands heretofore claimed by the Forestry Bureau, and the present boundary is fixed in this bill as a result of an agreement between the citizens residing in the vicinity of this forest reserve and the Forestry Bureau of the Agricultural Department. I trust there will be no opposition to the passage of the bill, as there was no opposition against the report of the bill from the Committee on Indian Affairs.

The SPEAKER. The question is on suspending the rules and passing the bill as amended.

Mr. WILLIAMS. Mr. Speaker, in order to save the time of the House and encourage the House to further legislation, I demand the yeas and nays.

The SPEAKER. The gentleman from Mississippi demands the yeas and nays.

The yeas and nays were ordered.



The question was taken, and there were—yeas 234, nays 2, answered "present" 6, not voting 145, as follows:

## YEAS—234.

Acheson	Dixon	Hitchcock	Norris
Adair	Douglas	Holliday	Nye
Aiken	Draper	Houston	O'Connell
Alexander, Mo.	Driscoll	Howell, N. J.	Olcott
Alexander, N. Y.	Durey	Howell, Utah	Olmsted
Allen	Dwight	Howland	Overstreet
Ansberry	Ellerbe	Huff	Padgett
Ashbrook	Ellis, Mo.	Hughes, N. J.	Page
Barchfield	Ellis, Oreg.	Hull, Tenn.	Parker, N. J.
Bartholdt	Englebright	Humphrey, Wash.	Parsons
Bartlett, Nev.	Esch	James, Addison D.	Patterson
Bates	Fairchild	Jenkins	Payne
Beall, Tex.	Ferris	Johnson, Ky.	Perkins
Bede	Finley	Johnson, S. C.	Pou
Bennett, Ky.	Fitzgerald	Jones, Va.	Pray
Bonyng	Floyd	Jones, Wash.	Prince
Booher	Focht	Kahn	Pujo
Bowers	Foster, Ill.	Kelley	Rainey
Boyd	Foster, Ind.	Kellher	Randall, Tex.
Brantley	Foster, Vt.	Kennedy, Iowa	Rauch
Brodhead	French	Kennedy, Ohio	Reeder
Brownlow	Fuller	Kimball	Robinson
Brumm	Fulton	Kitchin, Claude	Rodenberg
Brundidge	Gaines, Tenn.	Knapp	Rothermel
Burleigh	Gaines, W. Va.	Küstermann	Russell, Mo.
Burton, Del.	Gardner, N. J.	Lafean	Russell, Tex.
Burton, Ohio	Garner	Landis	Sabath
Campbell	Garrett	Langley	Shackleford
Candler	Gilham	Laning	Sherwood
Capron	Gillespie	Lee	Slyden
Carlin	Gillet	Legare	Smith, Cal.
Carter	Godwin	Lever	Smith, Mo.
Cary	Goebel	Lindbergh	Snapp
Caulfield	Gordon	Lloyd	Southwick
Chaney	Goulden	Longworth	Sperry
Chapman	Graft	Loud	Spight
Clark, Mo.	Graham	Loudenslager	Stanley
Cocks, N. Y.	Granger	Loving	Steenerson
Cole	Hackett	Lowden	Stephens, Tex.
Conner	Hackney	McCall	Sterling
Cooper, Pa.	Hale	McHenry	Sulloway
Cooper, Tex.	Hall	McKinlay, Cal.	Sulzer
Cooper, Wis.	Hamilton, Iowa	McKinley, Ill.	Taylor, Ohio
Coudrey	Hamilton, Mich.	McKinney	Thistlewood
Cox, Ind.	Hammond	McLain	Tirrell
Craig	Harrison	McMorran	Tou Velle
Crumacker	Haskins	Macon	Townsend
Currier	Haugen	Madison	Underwood
Cushman	Hayley	Maynard	Volstead
Dalzell	Hay	Miller	Waldo
Darragh	Hayes	Moore, Tenn.	Washburn
Davenport	Hedin	Moore, Pa.	Watkins
Davis, Minn.	Helm	Moore, Tex.	Weeks
Dawson	Henry, Conn.	Morse	Williams
De Armond	Henry, Tex.	Mouser	Wilson, Ill.
Denby	Higgins	Murdock	Wood
Denver	Hill, Conn.	Nedham	Young
Diekema	Hill, Miss.	Nelson	
	Hinshaw	Nichols	

## NAYS—2.

Hamlin Hardy  
ANSWERED "PRESENT"—6.

Bennet, N. Y. Knopf Roberts Small  
Butler Lorimer

## NOT VOTING—145.

Adamson	Flood	Law	Rucker
Ames	Fordney	Lawrence	Ryan
Andrus	Fornes	Leake	Saunders
Anthony	Foss	Lenahan	Scott
Bannon	Foulkrod	Lewis	Sheppard
Barclay	Fowler	Lilley	Sherman
Bartlett, Ga.	Gardner, Mass.	Lindsay	Sims
Beale, Pa.	Gardner, Mich.	Littlefield	Siemp
Bell, Ga.	Gill	Livingston	Smith, Iowa
Bingham	Glass	McCreary	Smith, Mich.
Birdsall	Goldfogle	McDermott	Smith, Tex.
Boutell	Greene	McGavin	Sparkman
Bradley	Gregg	McGuire	Stafford
Brady	Griggs	McLachlan, Cal.	Stevens, Minn.
Broussard	Gronna	McLaughlin, Mich.	Sturgiss
Burgess	Haggott	McMillan	Talbot
Burke	Hamill	Madden	Tawney
Burleson	Harding	Malby	Taylor, Ala.
Burnett	Hardwick	Mann	Thomas, N. C.
Byrd	Hepburn	Marshall	Thomas, Ohio
Calder	Hobson	Mondell	Vreeland
Calderhead	Howard	Moore, Pa.	Wallace
Caldwell	Hubbard, Iowa	Mudd	Wanger
Clark, Fla.	Hubbard, W. Va.	Murphy	Watson
Clayton	Hughes, W. Va.	Parker, S. Dak.	Webb
Cockran	Hull, Iowa	Pearre	Weems
Cook, Colo.	Humphreys, Miss.	Peters	Weisse
Cook, Pa.	Jackson	Pollard	Wheeler
Cousins	James, Ollie M.	Porter	Wiley
Cravens	Kinkaid	Powers	Willett
Crawford	Kipp	Pratt	Wilson, Pa.
Davey, La.	Kitchin, Wm. W.	Ransdell, La.	Wolf
Davidson	Knowland	Reid	Woodyard
Dunwell	Lamar, Fla.	Reynolds	
Edwards, Ga.	Lamar, Mo.	Rhinock	
Edwards, Ky.	Lamb	Richardson	
Fassett	Lassiter	Riordan	
Favrot			

So the rules were suspended and the bill was passed.

The Clerk announced the following additional pairs:

For this session:

Mr. WANGER with Mr. ADAMSON.

Until further notice:

Mr. AMES with Mr. BELL of Georgia.  
Mr. KINKAID with Mr. WILSON of Pennsylvania.  
Mr. WOODYARD with Mr. WEBB.  
Mr. WHEELER with Mr. WALLACE.  
Mr. WEEMS with Mr. TAYLOR of Alabama.  
Mr. VREELAND with Mr. SPARKMAN.  
Mr. SMITH of Michigan with Mr. SHERLEY.  
Mr. PEARRE with Mr. SAUNDERS.  
Mr. MCGAVIN with Mr. RUCKER.  
Mr. LAWRENCE with Mr. RICHARDSON.  
Mr. HULL of Iowa with Mr. RANDELL of Louisiana.  
Mr. HUBBARD of West Virginia with Mr. LASSITER.  
Mr. FOWLER with Mr. FAVROT.  
Mr. DAVIDSON with Mr. CRAWFORD.  
Mr. COOK of Pennsylvania with Mr. COCKRAN.  
Mr. COOK of Colorado with Mr. CLAYTON.  
Mr. BOUTELL with Mr. GRIGGS.  
Mr. SMITH of Iowa with Mr. CALDWELL.  
Mr. ADRUS with Mr. BURLESON.  
The result of the vote was announced as above recorded.

## COMMITTEE CHANGES.

The SPEAKER. The Chair lays before the House the following letter, which the Clerk will read:

The Clerk read as follows:

COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
Washington, D. C., May 16, 1908.

Hon. JOSEPH G. CANNON,

Speaker House of Representatives, Washington, D. C.

MR. SPEAKER: I hereby resign as a member of the Ways and Means Committee, and request that my successor be appointed at once.

Very respectfully,

JAMES E. WATSON.

The SPEAKER. Without objection, the request of the gentleman from Indiana [Mr. WATSON]—

Mr. WILLIAMS. Mr. Speaker, I think that this is one of the mere routine matters of procedure, to which no objection should be made.

The SPEAKER. The Chair hears no objection. The Chair announces the following committee appointment: Mr. CRUMPACKER, to the Committee on Ways and Means.

## BROWNSVILLE AND GULF RAILWAY COMPANY.

Mr. GARNER. Mr. Speaker, I ask unanimous consent for the present consideration of Senate joint resolution No. 90, on the Speaker's table.

The SPEAKER. The gentleman from Texas [Mr. GARNER] asks unanimous consent to take Senate joint resolution No. 90 from the Speaker's table and pass the same. The Clerk will report the resolution.

The Clerk read as follows:

Joint resolution (S. R. 90) to amend an act authorizing the construction of bridges across navigable waters, etc.

Resolved, etc., That the bill (S. 4800) entitled "An act authorizing the construction of bridges across navigable waters, and to extend the time for the construction of bridges across navigable waters, and to legalize the construction of bridges across navigable waters," be, and the same is hereby, corrected so that the name St. Louis, Brownsville and Mexico Railway Company, as used therein, be changed to the Brownsville and Gulf Railway Company.

The SPEAKER. Is there objection?

Mr. WILLIAMS. I wish to ask the gentleman from Texas [Mr. GARNER] a question. I understand that this is a case where a mere clerical error was made in the name of the railroad?

Mr. GARNER. That is it.

Mr. WILLIAMS. I, of course, shall not object to that.

The joint resolution was agreed to.

## TARIFF HEARINGS.

Mr. PAYNE. Mr. Speaker, I move to suspend the rules, discharge the Committee on Rules from the further consideration of House resolution 392, and pass the same.

The SPEAKER. The gentleman moves to suspend the rules and discharge the Committee on Rules from the further consideration of the following resolution and agree to the same. The Clerk will report the resolution.

The Clerk read as follows:

## Resolution 392.

Resolved, That the Committee on Ways and Means is authorized to sit during the recess of Congress and to gather such information, through Government agents or otherwise, as to it may seem fit looking toward the preparation of a bill for the revision of the tariff; and said committee is authorized to purchase such books and to have such printing and binding done as it shall require, and in addition to requiring the attendance of the committee stenographers is authorized to employ an additional stenographer, and to incur such other expenses as may be deemed necessary by said committee; and all the expenses of said committee shall be paid out of the contingent fund of the House on the usual vouchers approved as now provided by law.

The SPEAKER. Is a second demanded?

Mr. CLARK of Missouri. I demand a second.

The SPEAKER. The gentleman from New York [Mr. PAYNE] is entitled to twenty minutes, and the gentleman from Missouri [Mr. CLARK] is entitled to twenty minutes.

Mr. PAYNE. Mr. Speaker, this resolution explains itself. In last December I introduced a resolution authorizing the committee to have such printing and binding done as was necessary in the transaction of its business, and also authorizing the committee to sit not only during sessions of the House, but during the recess of Congress. I had in mind then, in offering that resolution, that we might be engaged, and probably would be engaged, in preparation for the revision of the tariff during the recess of Congress. I only introduced this resolution to supplement the one that was passed last December and to give the committee an opportunity to employ more aid in prosecuting this particular work. The main object in passing the resolution at this time is to gather such information from the different Departments of the Government as will be useful in the revision of the tariff. I can not speak for the committee, but as for myself, I do not propose to go into a general inquiry or investigation this summer involving the rates in the schedules. I think the industries of the country and the labor of the country are entitled to peace, or to all the peace they can get, from now until after the Presidential election. After that is over I hope the committee will go into the subject of rates in regard to the revision of the tariff, but that is something for the committee to decide. My own intention is, so far as I can speak for the committee, and I believe that I can safely speak for the majority, that this will be the purpose of the committee and its proceedings under this resolution. I do not care to say anything more at the present time, and will reserve the balance of my time.

Mr. UNDERWOOD. Before the gentleman takes his seat, I would like to ask him a question. The question now coming before the House is new to me, and I think new to the minority members of the committee. I would like to ask the chairman of the Committee on Ways and Means if it is his purpose, if this resolution passes, to call that committee together during the summer and go into general hearings upon the tariff?

Mr. PAYNE. It is not. The gentleman evidently did not hear what I said. I said I did not propose to do anything to aid or create disquiet among the industrial interests of the country or agitate the laborers of the country during the progress of the Presidential campaign. After that is over, the committee will be very apt to hear all people who desire to be heard and have any information to give in respect to a revision of the tariff. In the meantime, we hope to gather up from official sources such information as will be useful, coming from those sources, in regard to the revision of the tariff. I do not care to enumerate them now. I do not know that I would if I had plenty of time.

I think I ought to say one word further. The House will see that this seems to be a "direct cut"—I think my friend from New Jersey would denominate it that way—at the Committee on Rules, who have failed heretofore to report this resolution. I want to say in extenuation of that committee that one member has been obliged to be out of town on account of sickness in his family, and it was impossible to get a meeting of the committee at which this resolution could probably be reported, and I wished to have it passed this afternoon, so that when the committee meets Monday morning the preliminary arrangements can be undertaken in regard to this investigation. I reserve the balance of my time.

Mr. CLARK of Missouri. I yield five minutes to the gentleman from Alabama [Mr. UNDERWOOD], who is upon the committee.

Mr. UNDERWOOD. Mr. Speaker, the resolution that the gentleman has just offered comes as a surprise to this side of the House and to the minority members of the Ways and Means Committee.

The country has demanded a revision of the tariff for years. The minority members of the Ways and Means Committee and the minority Members of this House have been earnest for a number of years in demanding a revision of the tariff laws; but the resolution that is presented by the chairman of the committee this evening shows the usual tactics of the Republican party. They bring it here undoubtedly as a mere subterfuge, to promise the country with one hand that they are going to do something, and yet holding it back with the other hand to withdraw it when they get ready. The announcement of the chairman of the committee just made proves the statement. If you were earnestly in favor of a revision of the tariff, why did you leave the resolution pending here for months? Why are you preparing to adjourn next week and not consider the

question? If you are really and honestly in favor of a revision of the tariff, why are you going to wait all summer before you consider the question, before you take the testimony and the facts that are necessary for the committee to have before they write another tariff bill? Why, Mr. Speaker, it seems to me as plain as the noonday sun that you are merely passing this resolution to try and hold out to those portions of the country that are demanding a tariff revision, to those members of your own party who are demanding a tariff revision, that you are going to do something in the future. How often before have you told this tale? Why, there has been hardly a time when it was necessary for you to face an election that you have not held out to the country promises of a revision of the tariff, that you have never kept and never will keep.

It is very clear to my mind what you intend by this resolution. If you believed that you were going to win the next election you would put it off, beyond any doubt, until the next Congress and then find excuses for not passing it. Or, if you wanted to revise the tariff, you would not revise it by an old Congress that was elected two years ago and put it through by whip and spur in the short session. You would do as you did when you enacted the Dingley bill. You would take your testimony next winter and turn that testimony over to the new Congress to enact a tariff bill after the next President of the United States is inaugurated.

But it is evident, Mr. Speaker, that you fear the results of another election. You merely want to say that you are going to revise the tariff. You want to be prepared, if the election goes against you next fall, to call the committee together at once, take evidence, and drive an ill-considered and ill-prepared tariff bill through this House, and then say to the country that it is not necessary for the Democratic party to revise the tariff, that you have already done it. That is all this resolution can accomplish and all that can be carried out by it. If you are honestly in favor of the revision of the tariff that the country is demanding, authorize the Ways and Means Committee to go to work to-day to take its testimony, stay here, pass your bill and write it on the statute books before the next election, and let the people of the United States pass on it. [Applause on the Democratic side.]

Mr. CLARK of Missouri. I yield five minutes to the gentleman from Mississippi [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, the gentleman from New York [Mr. PAYNE], the Chairman of the Committee on Ways and Means, said that this bill "explains itself." The gentleman was exactly right. The fool who runs can read what this bill means. A child under 14 years of age who knew the attitude of parties in the country could understand fully what the *arrière pensée* of this bill is.

Now, Mr. Chairman, we have been told for a long time by the gentleman from New York and others that they did not want to interfere with the tariff before an election, because they did not want to "disquiet the business interests." They did not want "to disturb American industries" prior to an election. Now, Mr. Speaker, if hearings upon a tariff and propositions to revise a tariff will disquiet American business interests and will disturb American industries, they will disquiet them and disturb them just as much after an election as before an election. The real object is not to "disturb" Republican campaign-fund contributors. As long as they do not know just what is going to happen to them they will contribute, for fear if they do not it may happen.

This bill ought to be entitled "A bill to enable the Republican party to 'save its face' and pretend that it wants a revision of the tariff and still run no risk by any specific bill of the disapproval of the people who desire a real revision of the tariff." [Applause on the Democratic side.]

Mr. Speaker, next November there is going to be a new House elected, either Republican or Democratic. If a Republican House shall be elected the Republican members of the Ways and Means Committee will proceed in their usual way. They will call themselves together—not the full Committee on Ways and Means, except for nominal hearings—and they will proceed to revise the tariff upward wherever it satisfies the special interests and reduce it downward wherever, by the free admission of raw material here and there, and leaving the finished product with the duty which it now bears for some special interests, those interests may be benefited.

If, on the other hand, the country shall go Democratic, or at any rate, the Members elected to the House shall be in majority Democratic, this being the body in which tariff legislation must originate, then, speaking for the minority, we do not want any moribund, derelict committee of a hold-over political party to present partisan hearings at a short session for the consideration of the House prior to the action of the real



representatives of the people elected by the Democratic people in the United States in November. [Applause on the Democratic side.]

Mr. Speaker, all this pretense of not "disturbing the public mind" in connection with the slightest interference with the sacred schedules of the tariff is buncombe. The gentleman does not mean that it will disturb the public mind at all in any industrial or business sense; he means that it might disturb the public mind in a political sense.

He dares not, the majority of this House dare not, bring out prior to election a proposition for the revision of the tariff, because the people of the United States are desiring a revision downward in the direction of untaxing the consumer as far as possible, and the Republican party will revise the tariff, if at all, as it always has done, in the interest of the robber barons, for protection. It may now and then find a robber baron who will say "I do not need protection any longer," and it may go through the form of revising downward upon his particular product. But wherever these men, whose counsel has hitherto been heeded nearly altogether by the Republican Committees on Ways and Means, shall come before it and say, "We need for our greater profit a higher duty," it will be given to them, and wherever they say, "We need for our profit a continuance of the present duty," it will be given to them. Those few who can say, "The duty has become obsolete and inoperative, and can no longer do good to us, because it puts no shekels in our pocket," for them the Committee on Ways and Means will agree that the duty shall be reduced.

Why, Mr. Speaker, I am sorry that a Speaker pro tempore is in the chair instead of the real Speaker, because I have another objection to the passage of this resolution. It is an expression of distrust on the part of the Committee on Ways and Means of the great Committee on Rules, of which I am a humble and inefficient member. The motion by inuendo charges that this resolution which has been before the Committee on Rules, subject to the judgment of the Speaker of this House, the great leader of the Republican party—although under the law he is supposed to be a nonpartisan Speaker of the House—the great leader of the Republican party as chairman of the Committee on Rules, on which sits the gentleman from Pennsylvania [Mr. DALZELL], with a fine Italian hand that can write rules that nobody can understand except himself until after he has explained them and then only by construction his way, in the interest of their partisan operation in the House, upon which committee also sits the gentleman from New York [Mr. SHERMAN], the gentleman from Missouri [Mr. DE ARMOND], and upon which I sit also, is by this motion to discharge it to be discredited before the country; an inuendo is going to the country involved in the very motion to discharge that the Committee on Rules has not done its duty. This proposition has been pending before them I do not know how long, and they have not reported it out.

The Republican Speaker of this House does not want to indulge in any hypocritical pretense of reforming the tariff; he is a true stand-patter, a Sadducee of the Sadducees, and stands on his own two feet, and would not report the resolution out of the Rules Committee, as is proven by the fact that he did not report it out; and the chairman of the Committee on Ways and Means has to come in here and attempt to discredit the Speaker of the House.

I told you, a week ago, that there were motions—symptoms—premonitions of weakening on the part of the Republican floor leader [Mr. PAYNE]; and here he is in revolt, flagrant revolt, led by him against the Committee on Rules. He, by this motion, expresses a lack of confidence in that great Committee on Rules, of which the Speaker is chairman and Deus ex machina. I prefer the Speaker's courage, even when wrong-headed, to Ways and Means pretense, even when seemingly compliant.

You are going, if you pass this motion, to treat the Speaker and the Committee on Rules with the same contempt that you treated your own Committee on Banking and Currency the other day, and I daresay that when you appoint conferees you will appoint them from the Ways and Means Committee and not from the Committee on Rules. I plead with you, gentlemen upon that side, to remember the honored years of long service, to remember the gray hairs, to remember the sincerity as a stand-patter of the Speaker of this House, and let us, us Democrats, revise the tariff in our time; but do not let the gentleman from New York [Mr. PAYNE], as a mere "stray and loose knight errant" of protection revision, attack the Speaker of this House and express the opinion of the House to the effect that the Speaker and the Committee on Rules have lost the confidence of the Republican majority. [Applause on the Democratic side.]

Mr. CLARK of Missouri. Mr. Speaker, I hope the gentleman from New York will use part of his time now.

Mr. PAYNE. Mr. Speaker, I have had no requests for time, and I do not know as there will be any more than one speech upon this side.

Mr. CLARK of Missouri. Well, I know, but I do not want a fifteen-minute speech to close this matter.

Mr. PAYNE. You would not have the speech cut in two in the middle for the purpose of getting into it, would you?

Mr. CLARK of Missouri. Certainly, I would.

Mr. PAYNE. Well, I would not.

Mr. CLARK of Missouri. Is the gentleman going to have more than one speech?

Mr. PAYNE. No; and I do not think it will take any fifteen minutes; it will not take more than five minutes.

Mr. CLARK of Missouri. Mr. Speaker, then I yield three minutes to the gentleman from Texas [Mr. RANDELL].

Mr. RANDELL of Texas. Mr. Speaker, it is not necessary for me to say anything on this resolution, and I would not address myself to the proposition were it not that I wish to enter my protest against it as a Member of this House and as a member of the Committee on Ways and Means. It does not mean anything good for the people. The hypocrisy of this political trick is apparent to all who are acquainted with the situation. If the desire of the chairman of the committee and those in power was to reorganize the tariff legislation of the country, and in furtherance of such intention they expected to have hearings to gain information on which to revise the tariff, no resolution like this would be offered authorizing the Committee on Ways and Means to sit during the summer recess of Congress, with the declaration made by the chairman of that committee here on this floor that "no meeting of the committee would be had until after the election." Mr. Speaker, why pass the resolution when it is admitted by the gentleman from New York [Mr. PAYNE] that no hearings will be had until after the election? This would leave only three weeks until the next regular session of Congress.

Does anyone think for a moment that his purpose is to use those three weeks in looking up the facts, in getting figures, in acquiring the information necessary to draw a tariff bill? Why has all the time been wasted during this term—during the last Congress? Why has it been that the Committee on Ways and Means has not investigated these facts heretofore? Why get authority now which will not be used until after the election? I will tell you what this resolution is for. It is a frying pan to fry the fat out of "the interests" for your campaign fund. [Applause on the Democratic side.] You know that this action means that the Republican managers can trade with the interests, can hold the power to have tariff "hearings" as a club over the heads of those corporations now plundering the people. The committee can sit during the summer if it will. The purpose, however, as announced by the chairman of the committee, is not to sit during the summer.

But if any "interest" does not come to time, does not support the present Administration, does not contribute to the campaign fund of the Republican party, this committee can be called together at any time during the recess, and facts can be elicited that would not be very favorable, perhaps, to the party not contributing the funds required. It would be a great persuader and is evidently intended for that purpose. I do not mean to unjustly charge any man or set of men, but I do say that the intention to deceive the people and to force the moneyed powers to obedience is clearly apparent.

Mr. LOVERING. May I ask the gentleman a question?

Mr. RANDELL of Texas. I have only three minutes, and if the gentleman from New York will give me some time I will answer the question.

Mr. PAYNE. I will yield the gentleman one minute in which to answer the question.

Mr. LOVERING. I should like to ask the gentleman from Texas or the gentleman from Mississippi [Mr. WILLIAMS] whether he thinks it would be wise for the committee at this time to enter upon the work of revising the schedules, whether he thinks the industries of this country in their present depressed state can stand any agitation of that sort? I for one do not. I would say also that I am in favor of a revision of the tariff.

Mr. RANDELL of Texas. I will try to answer the gentleman's question with perfect candor. I do not believe that the business interests of the country would be injured now any more than they would be later on by gathering information to revise the tariff, but I do believe that the "business interests" of the Republican party could not stand the test. [Applause on the Democratic side.]

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. RANDELL of Texas. The four minutes?

The SPEAKER pro tempore. The three minutes granted by the gentleman from Missouri [Mr. CLARK] and the one minute yielded by the gentleman from New York [Mr. PAYNE].

Mr. CLARK of Missouri. Mr. Speaker, I yield the remaining time, five minutes, to the gentleman from New York [Mr. FITZGERALD].

Mr. FITZGERALD. Mr. Speaker, this action on the part of the gentleman from New York [Mr. PAYNE] marks the complete demoralization of the Republican machine. It has been going by successive stages. It commenced when the Speaker introduced a resolution to appoint a special committee to investigate a matter that was clearly within the jurisdiction of the Committee on Ways and Means. He introduced a resolution to appoint a special committee to investigate whether the tariff should be removed from wood pulp and print paper, and when that resolution was adopted he did not appoint a single member of the Committee on Ways and Means upon the special committee.

I have heard that committee referred to in a facetious manner as the "committee on subterfuge." I am surprised that the gentleman from New York did not consider it proper to send this investigation to that committee. The next step in this movement, or this demoralization, of the Republican machine in the House was marked when several Members on the Republican side were permitted to move to suspend the rules and adopt special orders instead of having the Committee on Rules perform that function. The next step was recently witnessed when a Republican caucus took from the Committee on Banking and Currency the responsibility of preparing a financial bill and referred it to a special committee, which was selected in advance, with the knowledge that the result of its work would be satisfactory to the Speaker and to the men about him who control this House and control legislation.

And now the gentleman from New York, awaiting long and patiently an opportunity to revenge himself upon the Speaker and upon the gentleman from Pennsylvania [Mr. DALZELL], has moved to discharge the Committee on Rules from the consideration of this resolution and to pass it under a suspension of the rules. This resolution was referred to the Committee on Rules on the 30th of April. It slumbered there for sixteen days. I hold in my hand a copy of the resolution introduced by the gentleman from New York [Mr. PAYNE], and reported by him from the Committee on Ways and Means and referred to the Committee of the Whole House on the state of the Union on the 1st of April. This resolution purports to distribute among the various committees of the House the various portions of the message transmitted March 31 to the Congress by the President of the United States. Even if the Republican majority did not intend to adopt the President's suggestions, a decent respect for the opinions of the President of the United States should have impelled the gentleman from New York at least to have buried the message among the various committees instead of permitting it to slumber in the Committee of the Whole House on the state of the Union. But, alas, they have been so busy attending to the needs of the people that they have overlooked this resolution sending to the proper committees the message of the President. Is my colleague afraid that some of those committees might break from the control of the Speaker and his associates and report some legislation recommended by the President? If not, why has he not, as has been from the beginning of the Government until this Congress, treated in a respectful and decent manner the messages of the President of the United States? This, I say, Mr. Speaker, marks the complete demoralization of the machine in this House, and it is but a forerunner of the complete demoralization and rout of the Republican party. [Applause on the Democratic side.]

The SPEAKER. The time of the gentleman has expired.

Mr. PAYNE. Mr. Speaker, I promised there would be only one speech on this side, but the gentleman from Illinois [Mr. BOUTELL] came in later and wanted to submit the Illinois platform. If he desires to do so I will be pleased to offer it in my remarks on behalf of the gentleman.

Mr. BOUTELL. It will only take a few minutes.

Mr. PAYNE. I will ask the Clerk to read it.

Mr. BOUTELL. I am very grateful, indeed, to the gentleman from New York, as this is so in harmony with the spirit of this resolution. As I had the honor to draft it, I am very glad to have it appear in this manner.

The Clerk read as follows:

TARIFF PLANK IN THE PLATFORM OF THE ILLINOIS REPUBLICAN STATE CONVENTION—ADOPTED AT SPRINGFIELD, ILL., MARCH 26, 1908.

The present tariff law, which was passed at the special session of the Fifty-fifth Congress convened by President McKinley, and which was

signed July 24, 1897, by that illustrious protectionist, has amply justified all the promises and hopes of its advocates and supporters. It has proven the most scientifically adjusted, and, therefore, the best tariff that was ever placed on the statute books. Under its beneficent influence, abundant revenues have flowed into the National Treasury; our domestic commerce has expanded beyond all expectations; the volume of our export trade has constantly increased until within the past six months it has reached high-water mark; the ratio of our manufactured exports has steadily advanced; our farmers have received the highest prices and our mechanics and other workmen the highest wages that have ever been paid, and our citizens of all classes have enjoyed a greater degree of prosperity than has ever prevailed during a like period in any other country.

The broadening of the home market and the increased foreign demand for our products have stimulated competition, and this competition has brought out manifold new discoveries and inventions which have materially altered the cost of production, both at home and abroad, of almost every article of commerce. The long continuance of the benefits conferred by the present tariff has produced an industrial situation that suggests the possibility of securing by the revision of the tariff additional benefits for the people of the United States through a wise continuance of the policy of protection. It is now apparent that in order to maintain the scientific accuracy of the tariff, remove inequalities, and prevent injustice some new schedules must be added to the law, some of the present rates must be lowered, while some must be repealed altogether. The very success of the present tariff demonstrates the wisdom of revising it to conform to the improved conditions which it has produced.

We believe that the people of the United States will profit by a new tariff, but it must be a Republican tariff, a protective tariff, a tariff which recognizes in all its parts the difference between American and foreign wages, the difference between the high scale of living of American wage-earners and the scale imposed by insufficient wages upon foreign workmen.

We therefore recommend to our delegates to the Republican national convention that they urge upon that convention the wisdom of declaring for a revision of the tariff to be made at the next session of Congress or at a special session of the Sixty-first Congress to be convened immediately after the inauguration of the next President, March 4, 1909.

We believe that our tariff should contain a provision for minimum and maximum rates, the minimum rates giving full protection, the maximum rates to be invoked for retaliating upon foreign countries that discriminate against American products.

We believe that two main ideas should pervade all the provisions of the tariff:

First, That the protective principle shall so prevail in all the schedules that American farmers, workmen, and producers shall be given the first call on the home market; and

Secondly, That no illegal or unjust combination, trust, or monopoly shall find encouragement or shelter in any of its provisions.

To the end that the revision of the tariff may be accomplished with the greatest possible gain and the least possible loss, we suggest to our Senators and Representatives in Congress that they seek to secure at once the passage in their respective Houses of resolutions directing the proper committees to proceed immediately to collect the preliminary information necessary for a revision of the tariff, so that when the work is entered upon all parties in interest may be heard and the law framed, discussed, and passed without delay and without any disturbance of the financial and industrial interests of the country.

Mr. PAYNE. Mr. Speaker, I do not mind stating confidentially to the other side the Republican programme, as I understand it. Just now the country is recovering from a panic and business is more or less demoralized. It needs rest and quiet. It will have the agitation of a campaign for the Presidency and the next House during the few months that are to come. We do not deem it the part of wisdom to add anything to that excitement or disquiet by considering during that time the schedules of the tariff. We propose first to elect a Republican House. [Applause on the Republican side.] We propose to call the whole committee together immediately after the election, both the Republican and the Democratic end of it, and invite people to come in here who have knowledge upon the subject to impart such information as they are able to give to the whole committee, Republicans and Democrats.

After those hearings are closed we propose to do just what has been done by every Ways and Means Committee since I commenced this business with the McKinley committee—call together the majority members of the committee, as was done with the Wilson bill, and to ask our Democratic friends, or rather to excuse them from attendance upon the sessions of the majority of the committee while we are framing a tariff bill. When we have framed it we will call them in again and submit our work to them, and, finally, we will submit our work to the Congress. It will be a revision of the tariff, Mr. Speaker. It will be a protective tariff; it will be a maximum and minimum tariff, I believe, putting us on an equality with France, Germany, and Russia in that respect, and we will go out with that tariff, as we did with the Dingley tariff, in the firm belief that we will bring renewed prosperity to the people of the United States; that we will not only continue to broaden our markets with the nations of the earth but we will bring blessings to all the people. That is the Republican programme. [Great applause on the Republican side.]

The SPEAKER pro tempore. The question is on suspending the rules and agreeing to the resolution.

Mr. CLARK of Missouri. Mr. Speaker, I demand the yeas and nays.



The yeas and nays were ordered.

The question was taken, and there were—yeas 154, nays 92, answered "present" 8, not voting 133, as follows:

## YEAS—154.

Adair	Diekema	Howland	Nelson
Alexander, N. Y.	Douglas	Hubbard, Iowa	Norris
Allen	Draper	Hubbard, W. Va.	Nye
Barchfield	Driscoll	Huff	Olcott
Barchley	Durey	Humphrey, Wash.	Olmsted
Bartholdt	Dwight	James, Addison D.	Overstreet
Bates	Ellis, Mo.	Jenkins	Parker, N. J.
Bede	Ellis, Oreg.	Jones, Wash.	Parker, S. Dak.
Bennett, Ky.	Englebright	Kahn	Parsons
Bonyng	Esch	Kelser	Payne
Boutell	Focht	Kennedy, Iowa	Pearre
Boyd	Fordney	Kinkaid	Perkins
Brownlow	Foster, Ind.	Knapp	Pollard
Brumm	Foster, Vt.	Küstermann	Porter
Burleigh	French	Lafean	Pray
Burton, Del.	Fuller	Landis	Reeder
Burton, Ohio	Gaines, W. Va.	Langley	Rodenberg
Calderhead	Gardner, Mich.	Lanling	Slomp
Campbell	Gardner, N. J.	Lawrence	Smith, Cal.
Capron	Garner	Legare	Smith, Iowa
Cary	Gillett	Lindbergh	Snapp
Chaney	Goebel	Longworth	Southwick
Chapman	Graff	Loud	Sperry
Cocks, N. Y.	Graham	Loudenslager	Stafford
Cole	Hale	Lovering	Sterling
Conner	Hall	Lowden	Sullivan
Cook, Colo.	Hamilton, Iowa	McCall	Thistlewood
Cooper, Pa.	Hamilton, Mich.	McKinley, Ill.	Tirrell
Cooper, Tex.	Hammond	McKinney	Townsend
Cooper, Wis.	Haskins	McLaughlin, Mich.	Volstead
Coudrey	Hawley	Madden	Waldo
Crumpacker	Hayes	Madison	Washburn
Currier	Henry, Conn.	Miller	Wheeler
Cushman	Higgins	Mondell	Wilson, Ill.
Dalzell	Hill, Conn.	Moore, Pa.	Wood
Davidson	Hinshaw	Morse	Woodyard
Davis, Minn.	Holliday	Mouser	Young
Dawson	Howell, N. J.	Murdock	
Denby	Howell, Utah	Needham	

## NAYS—92.

Alken	Finley	Hughes, N. J.	Randell, Tex.
Alexander, Mo.	Fitzgerald	Hull, Tenn.	Richardson
Ansberry	Floyd	Johnson, Ky.	Robinson
Beall, Tex.	Foster, Ill.	Johuson, S. C.	Rothermel
Bell, Ga.	Fulton	Jones, Va.	Rucker
Bocher	Gaines, Tenn.	Kelher	Russell, Mo.
Bowers	Gill	Kimball	Russell, Tex.
Brantley	Gillespie	Kitchin, Claude	Sabath
Brodhead	Godwin	Lamb	Shackelford
Burleson	Gordon	Lassiter	Sherley
Burnett	Granger	Lloyd	Sherwood
Candler	Hackett	McHenry	Slyden
Clark, Mo.	Hackney	McLain	Smith, Mo.
Clayton	Hamlin	Macon	Sparkman
Cockran	Hardy	Moon, Tenn.	Splight
Cox, Ind.	Harrison	Moore, Tex.	Stanley
Craig	Hay	Nicholls	Stephens, Tex.
Davenport	Hedin	O'Connell	Sulzer
De Armond	Helm	Padgett	Taylor, Ala.
Denver	Henry, Tex.	Page	Tou Valle
Dixon	Hill, Miss.	Patterson	Underwood
Ellerbe	Hitchcock	Pou	Watkins
Ferris	Houston	Rainey	Williams

## ANSWERED "PRESENT"—8.

Adamson	Goulden	Lorimer	Sims
Flood	Haggott	Pujo	Small

## NOT VOTING—133.

Acheson	Edwards, Ky.	Lamar, Fla.	Reynolds
Ames	Fairchild	Lamar, Mo.	Rhinock
Andrus	Fassett	Law	Riordan
Anthony	Favrot	Leake	Roberts
Ashbrook	Fornes	Lee	Ryan
Bannon	Foss	Lenahan	Saunders
Bartlett, Ga.	Foulkrod	Lever	Scott
Bartlett, Nev.	Fowler	Lewis	Sheppard
Beale, Pa.	Gardner, Mass.	Lilley	Sherman
Beane, N. Y.	Garrett	Lindsay	Smith, Mich.
Bingham	Gilliams	Littlefield	Smith, Tex.
Birdsall	Glass	Livingston	Steenerson
Bradley	Goldfogle	McCreary	Stevens, Minn.
Broussard	Greene	McDermott	Sturgiss
Brundidge	Gregg	McGavin	Talbot
Burress	Griggs	McGuire	Tawney
Burke	Gronna	McKinlay, Cal.	Taylor, Ohio
Butler	Hamill	McLachlan, Cal.	Thomas, N. C.
Byrd	Harding	McMillan	Thomas, Ohio
Calder	Hardwick	McMorrison	Vreeland
Caldwell	Haugen	Malby	Wallace
Carlin	Hepburn	Mann	Wanger
Carter	Hobson	Marshall	Watson
Caulfield	Howard	Maynard	Webb
Clark, Fla.	Hughes, W. Va.	Moon, Pa.	Weeks
Cook, Pa.	Hull, Iowa	Mudd	Weems
Cousins	Humphreys, Miss.	Murphy	Wells
Cravens	Jackson	Peters	Wiley
Crawford	James, Ollie M.	Powers	Willett
Darragh	Kennedy, Ohio	Pratt	Wilson, Pa.
Davey, La.	Kipp	Prince	Wolf
Dawes	Kitchin, Wm. W.	Ransdell, La.	
Dunwell	Knopf	Rauch	
Edwards, Ga.	Knowland	Reld	

So the resolution was agreed to.

The Clerk announced the following additional pairs:

Until further notice:

Mr. TAWNEY with Mr. RAUCH.

Mr. STEENERSON with Mr. GOLDFOGLE.  
Mr. SMITH of Michigan with Mr. GLASS.  
Mr. LITTLEFIELD with Mr. CRAWFORD.  
Mr. KNOPF with Mr. CARTER.  
Mr. KENNEDY of Ohio with Mr. CARLIN.  
Mr. HAUGEN with Mr. BRUNDIDGE.  
Mr. McKINLAY of California with Mr. GARRETT.  
Mr. DARRAGH with Mr. BARTLETT of Nevada.  
Mr. CAULFIELD with Mr. ASHERBROOK.  
Mr. ACHESON with Mr. MAYNARD.  
For the balance of the day:  
Mr. GILHAMS with Mr. LEVER.

For session:

Mr. McMORRAN with Mr. PUJO.

Mr. SIMS. Mr. Speaker, has the gentleman from Illinois [Mr. MANN] voted?

The SPEAKER pro tempore. He has not.

Mr. SIMS. I voted "nay." I wish to withdraw that vote and vote "present."

The name of Mr. SIMS was called, and he answered "present," as above recorded.

Mr. PUJO. Did the gentleman from Michigan [Mr. McMORRAN] vote on this question?

The SPEAKER pro tempore. He did not vote.

Mr. PUJO. I am paired with him. I voted "nay," and I ask that my name be called.

The name of Mr. PUJO was called and he answered "present," as above recorded.

The result of the vote was announced as above recorded.

## CHANGE OF REFERENCE.

Mr. BOUTELL. Mr. Speaker, I ask unanimous consent for change of reference of the bill H. R. 7603, and similar Senate bill S. 890, from the Committee on Claims to the Committee on Ways and Means.

The SPEAKER pro tempore. Is there objection?

Mr. SHACKLEFORD. Mr. Speaker, I object.

Mr. UNDERWOOD rose.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. SHACKLEFORD] and the gentleman from Alabama [Mr. UNDERWOOD] object.

Mr. UNDERWOOD. Mr. Speaker, I did not object. I wanted to inquire what the resolution was.

Mr. BOUTELL. Will the gentleman from Missouri [Mr. SHACKLEFORD] reserve his objection for a minute?

Mr. WILLIAMS. I think I know what the resolution is.

Mr. SHACKLEFORD. I would rather not do that, Mr. Speaker. I object.

Mr. WILLIAMS. I think I know what the resolution is, and, if the gentleman from Missouri [Mr. SHACKLEFORD] had withdrawn his objection, I would have objected, anyhow.

## SENATE BILLS REFERRED.

Under clause 2, Rule XXIV, Senate bills and joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 6529. An act for the relief of Mary S. Fergusson—to the Committee on Claims.

S. 6523. An act granting a patent for land to "The Sisters of the Blessed Sacrament for Indians and Colored People," a charitable corporation organized under the laws of the State of Pennsylvania—to the Committee on Indian Affairs.

S. 6506. An act to amend an act entitled "An act to establish a Code of Law for the District of Columbia"—to the Committee on the District of Columbia.

S. 6373. An act waiving the statute of limitations as to the claim of the Nestler Brewing Company, and authorizing the Commissioner of Internal Revenue to adjudicate the same—to the Committee on Claims.

S. 6246. An act authorizing the Secretary of the Interior to set aside a certain tract of land for town-site purposes—to the Committee on Indian Affairs.

S. 3940. An act for the proper observance of Sunday as a day of rest in the District of Columbia—to the Committee on the District of Columbia.

S. 5989. An act authorizing the Department of State to deliver to Maj. C. De W. Wilcox decoration and diploma presented by Government of France—to the Committee on Foreign Affairs.

S. 6775. An act construing certain provisions of an act of Congress entitled "An act to divide a portion of the reservation of the Sioux Nation of Indians in Dakota into separate reservations, and to secure the relinquishment of the Indian title to the remainder, and for other purposes," approved March 2, 1889, relating to Indian allotments, and for other purposes—to the Committee on Indian Affairs.

S. 6764. An act authorizing the Secretary of the Treasury to make an examination of certain claims of the State of Missouri—to the Committee on War Claims.

S. 6682. An act to reimburse W. B. Graham, late postmaster at Ely, Nev., for money expended for clerical assistance—to the Committee on Claims.

S. 6665. An act for the relief of Charles H. Dickson—to the Committee on Claims.

S. 6641. An act to incorporate the American National Institute (Prix de Paris) at Paris, France—to the Committee on the Library.

S. 7110. An act to aid in building a memorial to Abraham Lincoln on the site of the Lincoln birthplace in Kentucky—to the Committee on the Library.

S. 6783. An act to establish a fish-cultural station in the State of Nevada—to the Committee on the Merchant Marine and Fisheries.

S. 890. An act for the relief of William Boldenweck, assistant treasurer of the United States at Chicago—to the Committee on Claims.

S. 1577. An act for the relief of Sergt. James W. Kingon—to the Committee on Military Affairs.

S. 6161. An act for the relief of Rufus Neal—to the Committee on War Claims.

S. 5252. An act to provide for the payment of certain moneys advanced by the States of Virginia and Maryland to the United States Government to be applied toward erecting public buildings for the Federal Government in the District of Columbia—to the Committee on Claims.

S. 157. An act providing for the erection of a public building in the city of Hinton, W. Va.—to the Committee on Public Buildings and Grounds.

S. 1933. An act to provide for the erection of a public building at the city of Plattsmouth, Nebr.—to the Committee on Public Buildings and Grounds.

S. 2487. An act to amend section 5278 of the Revised Statutes—to the Committee on the Judiciary.

S. 5788. An act for the relief of the estate of Julius Jacobs—to the Committee on Claims.

S. 6242. An act for the establishment of a probation and parole system for the District of Columbia—to the Committee on the Judiciary.

S. 5905. An act for the relief of the executors of the estate of Harold Brown, deceased—to the Committee on Claims.

S. 5997. An act for the relief of Paul Butler—to the Committee on Claims.

S. 3808. An act to refund certain excess duties paid upon importations of absinthe and kirschwasser from Switzerland between June 1, 1898, and December 5, 1898—to the Committee on Claims.

S. 142. An act providing for the deposit of a model of any vessel of war of the United States Navy bearing the name of a State of the United States in the capitol building of said State—to the Committee on Naval Affairs.

S. 5648. An act to establish the Glacier National Park west of the summit of the Rocky Mountains and south of the international boundary line in Montana, and for other purposes—to the Committee on the Public Lands.

S. 2963. An act for the survey and allotment of lands now embraced within the limits of the Crow Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment—to the Committee on Indian Affairs.

S. 3764. An act to apply a portion of the proceeds of the sales of public lands to the endowment of schools or departments of mines and mining, and to regulate the expenditure thereof—to the Committee on Mines and Mining.

S. 6640. An act authorizing appropriations for South Pass of the Mississippi River, or surveys thereon, to be used in dredging said river above the pass to secure 35 feet and suitable width—to the Committee on Rivers and Harbors.

S. 4726. An act for the relief of certain purchasers of lots in the Fort Crawford military tract at Prairie du Chien, State of Wisconsin—to the Committee on Private Land Claims.

S. 6102. An act to further protect the public health, and imposing additional duties upon the Public Health and Marine-Hospital Service—to the Committee on Interstate and Foreign Commerce.

S. 6101. An act to promote the efficiency of the Public Health and Marine-Hospital Service—to the Committee on Interstate and Foreign Commerce.

S. 7023. An act to amend section 3 of the act of August 18, 1894, entitled "An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," so as to provide safeguards to life on boats and scows—to the Committee on the Merchant Marine and Fisheries.

S. 6788. An act to amend sections 2586 and 2587 of the Revised Statutes of the United States as amended by the acts of April 25, 1882, and August 28, 1890, relating to collection districts in Oregon—to the Committee on Ways and Means.

S. 608. An act relating to proof of signatures and handwriting—to the Committee on the Judiciary.

S. 4288. An act to empower the Court of Claims to hear and determine the claims of Robert V. Belt and Joseph P. Mullen for services and expenses for the Choctaw and Chickasaw freedmen—to the Committee on Indian Affairs.

S. 5163. An act to authorize the Secretary of the Interior to segregate for town sites certain lands belonging to the Chickasaw tribes, and for other purposes—to the Committee on Indian Affairs.

S. R. 67. Joint resolution empowering the Court of Claims to ascertain the amount of the "civilization fund" paid by the Osages and applied to the benefit of other Indians, and for other purposes—to the Committee on Indian Affairs.

S. 5944. An act for the relief of John F. Wingfield—to the Committee on War Claims.

S. 6923. An act for the relief of John M. Kelly—to the Committee on Claims.

S. 4691. An act to provide for the purchase of a site and the erection of a public building thereon at Marshall, in the State of Missouri—to the Committee on Public Buildings and Grounds.

S. 6544. An act to remove the charge of desertion from the record of William H. Atkins—to the Committee on Naval Affairs.

S. 1750. An act to reimburse Ella M. Collins, late postmaster at Goldfield, Nev., for money expended for clerical assistance and supplies—to the Committee on Claims.

S. 1526. An act to correct the military record of Edward T. Lewis—to the Committee on Military Affairs.

S. 3723. An act for the relief of the Farmers and Merchants' Bank of Mandan, N. Dak.—to the Committee on Claims.

S. R. 87. Joint resolution to amend an act entitled "An act to authorize the cutting of timber, the manufacture and sale of lumber, and the preservation of the forests on the Menominee Indian Reservation, in the State of Wisconsin," approved March 28, 1908—to the Committee on Indian Affairs.

#### ENROLLED BILLS SIGNED.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolution of the following titles, when the Speaker signed the same:

H. R. 11560. An act relating to unpaid Hawaiian Savings Bank deposits;

H. R. 17005. An act authorizing the Secretary of the Interior to issue patents in fee to the Board of Missions of the Protestant Episcopal Church for certain lands in the State of Idaho;

H. R. 5297. An act to complete the naval record of John Shaughnessy; and

H. J. Res. 178. Joint resolution for appointment of members of Board of Managers of the National Home for Disabled Volunteer Soldiers.

#### ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills and joint resolution:

H. R. 17296. An act providing for the restoration of the motto "In God we trust" on certain denominations of the gold and silver coins of the United States;

H. R. 19541. An act to authorize the drainage of certain lands in the State of Minnesota;

H. R. 17056. An act for the relief of Capt. Charles E. Morton, Sixteenth United States Infantry;

H. R. 16770. An act granting land to Anna Johnson;

H. R. 13577. An act providing for resurvey of certain lands in the State of Nebraska;

H. R. 17005. An act authorizing the Secretary of the Interior to issue patents in fee to the Board of Missions of the Protestant Episcopal Church for certain lands in the State of Idaho;

H. R. 5297. An act to complete the naval record of John Shaughnessy;

H. R. 11560. An act relating to unpaid Hawaiian Postal Savings Bank; and

H. J. Res. 178. Joint resolution for appointment of members of Board of Managers of the National Home for Disabled Volunteer Soldiers.

#### GRANTING ADDITIONAL LANDS TO IDAHO UNDER THE CAREY ACT.

Mr. FRENCH. Mr. Speaker, I make the motion which I send to the Clerk's desk.



The Clerk read as follows:

I move to suspend the rules of the House, discharge the Committee of the Whole House on the State of the Union from further consideration of S. R. 51, and pass the same with the following amendment.

Amend by striking out all after the enacting clause and inserting:

"That an additional 1,000,000 acres of arid lands within the State of Idaho be made available and subject to the terms of section 4 of an act of Congress entitled 'An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1895, and for other purposes,' approved August 18, 1894, and by amendments thereto, and that the State of Idaho be allowed, under the provisions of said acts, said additional area, or so much thereof as may be necessary for the purposes and under the provisions of said acts."

The SPEAKER pro tempore (Mr. CAPRON). Is a second demanded?

Mr. REEDER. I demand a second.

The SPEAKER pro tempore. Under the rules, a second is considered as ordered.

Mr. REEDER. I want to ask the gentleman a question. There is considerable wording about an appropriation. Does that change the law, or is it simply a grant of this million acres under this Carey bill?

Mr. FRENCH. That is all in the bill.

Mr. REEDER. I do not understand why that wording is given in there.

Mr. FRENCH. Because the original Carey Act is section 4 of that bill.

Mr. REEDER. Oh, yes; I remember that, now.

The SPEAKER pro tempore. The gentleman from Idaho is entitled to twenty minutes and the gentleman from Kansas is entitled to twenty minutes.

Mr. FRENCH. Mr. Speaker, I believe it would be well for me to say that the substitute that I have offered for Senate joint resolution 51 is embodied in House joint resolution 150 verbatim. The report upon the House resolution 150 covers the ground so far as pertains to the pending motion I have made.

The proposition is simply this: To pass this resolution will grant to the State of Idaho an additional 1,000,000 acres to be reclaimed under the terms of the Carey Act, which was passed in 1894. The reason for offering this resolution is this: The State of Idaho has practically exhausted the million acres granted under that act. Some of this land has already passed to patent; some of it has been settled and patents are pending in the Department. Something like half a million acres or more—

Mr. GAINES of Tennessee. Will the gentleman allow me to ask him a question?

Mr. FRENCH. Certainly.

Mr. GAINES of Tennessee. I understood you to say that your State has practically used up the million acres heretofore given?

Mr. FRENCH. That is my statement.

Mr. GAINES of Tennessee. The State, then, has about done its part in so doing?

Mr. FRENCH. Yes.

Mr. GAINES of Tennessee. How much is still hanging fire in the Department here?

Mr. FRENCH. The Department has approved, according to their last statement upon this question, for segregation to the State for reclamation over 700,000 of the million acres. Besides that, the State land board has approved applications covering practically all of the other fraction of the 1,000,000 acres of land.

Mr. GAINES of Tennessee. Now you want another million acres?

Mr. FRENCH. We want to have the State authorized to continue the reclamation of land to the extent of another million acres. I would state that there is pending before the State land board applications for 700,000 acres of land in excess of the original grant. If this resolution can pass and become effective this year it would probably enable the State to go ahead with the reclamation of 700,000 acres more of land prior to the convening of Congress next winter.

Mr. GAINES of Tennessee. How is this reclamation actually done?

Mr. FRENCH. The reclamation under the Carey Act is done in this manner: The whole body of the million acres is not given en bloc to the State, but rather when individuals or when a company makes application to the State for the purpose of developing an irrigation project—the location of the irrigation canal, reservoir sites, or dams—they submit to the State a proposition with their bid, setting forth the number of acres that they propose to reclaim, the total amount of money that they will ask for putting in the irrigation work, and the amount per acre which they will charge to the individual settlers.

The State land board then passes upon this application: If the State land board grants it, it indorses the application and applies to the Department of the Interior. The Department

of the Interior then passes upon the question, the feasibility of it, the reliability of the company, the character of the work, and the land that will come under the irrigation canal. If the Department approves the project, it so notifies the State, and the State is authorized to enter into a contract with the individuals or company for the reclamation of the land by the building of the approved system of irrigation works.

Mr. WILLIAMS. I would like to ask the gentleman a question.

Mr. FRENCH. Allow me first to finish this statement, and then I will yield. When the works have been completed by the individuals or company they report to the State; the State then, through its land department, examines the works to see whether or not they come up to the stipulations of the contract—and by the way I will say this, that a sufficient bond is exacted of the parties building the irrigation work to cover all the liabilities assumed.

Admitting, then, that the work shall be approved by the State, the matter is taken up again with the Interior Department, and if the Department is satisfied that a sufficient irrigation system has been put in, the Department authorizes the State to issue patents to the settlers, or rather issues patent to the State to be issued to the settlers. The settlers pay for the water right in ten annual payments. At the end of the ten years they have paid for the water, for the irrigation works, and they assume control, under the irrigation laws of the State, managing the whole system by means of the irrigation districts which are organized under the laws of the State, levying assessments, and so forth, for the purpose of maintaining and keeping up the irrigation system. They pay 50 cents per acre for the land and acquire title to the same in not to exceed three years' time after filing and after cultivating not less than one-eighth of the land acquired.

Mr. WILLIAMS. Will the gentleman yield for a question?

Mr. FRENCH. I will yield.

Mr. WILLIAMS. I desire to ask the gentleman what is the difference between this bill and the bill which we voted down the other day?

Mr. FRENCH. The difference between this bill and the bill that was voted down on Monday is this: That resolution gave to both the States, Idaho and Wyoming, 2,000,000 acres of land each. This limits the grant to Idaho alone and cuts the grant in two, making it a grant of 1,000,000 acres.

Mr. WILLIAMS. One question more. In the sundry civil bill as it comes from the Senate, 3,000,000 acres are provided, or a certain number of acres, at any rate, to go to Idaho, Wyoming, and Colorado. Now, I have heard it intimated that if we will agree to pass this bill, that provision will be stricken out of the sundry civil bill. What information can you give me upon that?

Mr. FRENCH. Of course I can not give definite information upon a question that is to be taken up in conference. I do not really think I ought.

Mr. WILLIAMS. Have you any assurances from the conferees or anybody that that will be done?

Mr. PAYNE. Let me answer that question. I will say that the gentleman from Minnesota [Mr. TAWNEY] told me this afternoon that he was getting information from the Department on that subject, and expected to eliminate those items from the sundry civil bill.

Mr. WILLIAMS. I understood as much. Now, as far as I am concerned, I am willing to vote for this bill if there is assurance that this 3,000,000-acre project will be stricken from the sundry civil bill. I am not willing to do it if this million acres might possibly be added to another 3,000,000 acres contained in that bill. I understand, of course, that the gentleman from Minnesota [Mr. TAWNEY] would like to strike it out, because I believe he voted with us in opposition to your original bill the other day. But have you any reason to believe, confidentially (you need not communicate its source), that if we pass your bill that provision will be stricken from the sundry civil bill?

Mr. FRENCH. I have heard the same statement from the gentleman from Minnesota [Mr. TAWNEY] that the gentleman from New York [Mr. PAYNE] has repeated.

Mr. WILLIAMS. Simply that the gentleman from Minnesota [Mr. TAWNEY] will do his best to have it stricken out.

Mr. FRENCH. I presume so, and I will say I will concede that it may be done, so far as Idaho is concerned.

Mr. WILLIAMS. You do not know that the conferees will strike it out?

Mr. FRENCH. No; but I say, so far as I am concerned, I will concede that Idaho shall go out.

Mr. WILLIAMS. Now, I should like to submit this proposition to the gentleman: I should like to ask him if he will not

agree to hold up his bill until we find out what they do concerning that; and if they do strike it out, I do not think the gentleman will have any trouble whatsoever in passing his bill. He certainly will have none so far as I am concerned; but I do not desire to run the risk of voting the 3,000,000 acres to these three States and an additional 1,000,000 acres to Idaho.

Mr. PAYNE. I do not think the gentleman from Mississippi heard the statement of the gentleman from Idaho that he would consent and ask to have the item go out of the sundry civil bill.

Mr. WILLIAMS. Yes, I understand; but would the item concerning Colorado and Wyoming go out, too?

Mr. PAYNE. I certainly hope so.

Mr. WILLIAMS. Will the gentleman help to get them out?

Mr. PAYNE. I will.

Mr. FRENCH. Mr. Speaker, I will reserve the balance of my time until the opposition have used some of theirs.

Mr. PAYNE. Mr. Speaker, I do not want to mislead the gentleman from Mississippi. I want to say that of course the conference report on the sundry civil may be called up under a motion to suspend the rules.

Mr. REEDER. Mr. Speaker, I yield two minutes to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Speaker, I would like to ask the gentleman from Idaho a question. Can we have any assurance that if this bill is passed that it will not come out of the conference as the original proposition that was presented in the House the other day?

Mr. FRENCH. Why, Mr. Speaker, I can not give any such assurance. I personally do not believe so. I do not believe there is any danger of that at all.

Mr. MANN. This is a House resolution, as I understand?

Mr. FRENCH. This is House resolution 150, and I offer it as a substitute resolution for the Senate resolution.

Mr. MANN. I yield back to the gentleman from Kansas the balance of my time.

Mr. REEDER. Mr. Speaker, I yield two minutes to the gentleman from Tennessee [Mr. GAINES].

Mr. GAINES of Tennessee. Mr. Speaker, there is this marked difference in favor of this bill. I voted against the Wyoming-Idaho proposition which we had up here a few days ago, but there is this to be said in favor of this Idaho bill. The State of Wyoming has practically reclaimed little or none of her million acres of land. She has had a right to a million of acres, and has had an opportunity of reclaiming it, but has done but very little of that work. In this case the State of Idaho has done a great deal of work toward reclamation. The State, so far as it is concerned, has practically reclaimed, as we are informed, or will have done her part in reclaiming her million, and there are a large number of claims now to be passed upon by the Secretary of the Interior approving or disapproving what is being done.

Hence I myself feel very much like voting for this bill because the State as a State and her people as a people have come well-nigh up to every requirement of the law, while Wyoming, upon the showing made here a few days ago, has not, and I think that is the criticism I made of the proposition at the time.

Now, if the gentleman from Idaho will permit me to ask him a question, I am done. This report states that in Idaho the system has worked remarkably well, that the Secretary of the Interior, with the approval of the President, has approved for segregation 643,452 acres, and the State has selected 909,104 acres of the million acres.

Now, then, will the gentleman from Idaho tell the committee, so that we can have the whole facts, why the Secretary of the Interior has not approved all of the work that the State has asked the Secretary to approve?

Mr. FRENCH. The reason is this: We have a national reclamation law under which lands are being reclaimed; we have the Indian reservation law; we have lands that have passed into private ownership under the desert-land act and other laws. Sometimes it happens that an application for segregation under the Carey Act overlaps one or more of these propositions or tracts of land. The Department sometimes finds it necessary to spend several months inquiring of the engineers in the field or the local land-office officials to ascertain whether or not the segregation overlaps.

Mr. GAINES of Tennessee. To the extent of 909,104 acres the State has done her part?

Mr. FRENCH. Yes; and more, because others are not included in this report.

Mr. REEDER. Mr. Speaker, I think that I know the situation as to this bill, and yet I am not quite sure of it. Resolution No. 51 appropriated, as I understood, 1,000,000 acres for the State of Idaho and nothing else. Is that right?

Mr. FRENCH. Yes.

Mr. REEDER. That was amended by the Committee on the Public Lands so as to make it two million for Idaho and two million for Wyoming. Now, this has been stricken out so that we can depend upon it that this bill does nothing more than grant 1,000,000 acres to the State of Idaho. Is that all?

Mr. FRENCH. That is the purpose of the resolution.

Mr. REEDER. Now, I wish to talk to you, gentlemen, a few moments in regard to this matter, because I took quite an active part in trying to prevent this bill passing before.

Mr. GAINES of Tennessee. This bill?

Mr. REEDER. This same resolution, as amended to carry 4,000,000 acres. I wish to say, however, before going further, that I am not intending to oppose this bill, because I have it from the gentleman from Minnesota [Mr. TAWNEY], with the understanding that I can depend upon it, that the conferees have agreed that if this resolution pass, the 3,000,000 acres will be stricken out of the sundry civil bill. I understand that I am permitted to say as much to this House, that it is agreed in the conference that if we pass this bill, the 3,000,000 acres will be stricken out, and it is upon that agreement that I am basing my lack of objection to this resolution.

Mr. TAWNEY. If the gentleman from Kansas will pardon me, I will state that the gentleman has not quite correctly stated what I said. There has been no conference as yet on the sundry civil bill, and therefore there could be no agreement. I said to the gentleman from Kansas that if this bill in relation to Idaho were passed, there would be no question about the attitude of the conferees in regard to the entire provision—that the whole provision would go out if the House conferees had the power to put it out.

Mr. REEDER. I am perfectly free to say that if I thought there was any chance of its staying in, I would oppose this bill.

Mr. TAWNEY. Well, I do not think it will stay in there.

Mr. REEDER. I wish to talk a little further on this proposition—

Mr. TAWNEY. I will say further to the gentleman from Kansas that it is a legislative provision, and the uniform rule in conference is that the House proposing new legislation must yield if the other House insists.

Mr. REEDER. Then I feel that I am still safe in saying that we can depend upon it that this provision of 3,000,000 acres that has been hidden away in the sundry civil bill will not become a law. I wish now to say something about the reason that has caused me to be against this bill. I do not think any man in the House is more in favor of irrigation than I am, and I do not think there is any man in the House more in favor of the Carey law than I am. I have seen quite a lot of its work; and if I had the time I would like to describe to you some of the successful work that has been done under this law.

But the fact that I knew so well what could be done made me dislike very much to permit any amount of land, especially 4,000,000 acres, to go out of the Government's possession into the possession of anyone if there is danger that instead of being put under irrigation it will go into the hands of speculators. There was some question, and there is some question on this subject, but I think there is little doubt in regard to the law being complied with in the State of Idaho, and I have seen some of their projects. But I wish to say further that the resolution which I spoke of when this resolution was up before for consideration, that I had introduced and that was turned down by the Committee on Public Lands, and the inquiry that it has brought about, considerable inquiry has already been made and more is to be undertaken as to the disposition of these lands. Some things have been discovered that are not very favorable to passing large amounts of land into the hands of the States under this law. But this investigation will be conducted further during the summer, and the chances are that the investigation will have the effect of discovering any place where the law is being violated, and it will also have a further effect of making the people a good deal more careful to see that the law is fulfilled as to these lands.

I desired to make something of a talk on the land question, but I do not believe I will at this time of the day on a Saturday evening. I would also like to occupy some time describing some of the irrigation projects. I shall take some time as soon as I can secure time and discuss these matters more fully. But I shall refrain now because of the hour. I know I can appeal to anyone in this House who has not been here for ten years to attest to the fact that I do not often talk, and I will not permit myself to talk now, when I know you would rather be voting.

Mr. DRISCOLL. If it is a good thing to give a million acres to Idaho, why is it not a good thing also to give a million acres to Wyoming and to Colorado?

Mr. REEDER. I will tell the gentleman. They do not need it now. I do not know but that Wyoming is doing just as well



by her projects as Idaho is. I do not know anything to the contrary, but they have not gone so far as to need this until further investigation is made. Then I shall favor giving Wyoming a million acres more and also Colorado a million acres more. Colorado has only used about 70,000 acres out of her million. There are more than 930,000 acres left, and the result is they do not need it.

Mr. COOPER of Pennsylvania. I will ask the gentleman if it is not true that all the Government money that is available for reclamation work is practically set aside—appropriated for their projects now in course of construction? If that is not the case, and if Idaho wants to carry on this work of reclamation, it will be necessary for her to get this additional land through the means of the Carey Act, as we now propose.

Mr. REEDER. The question the gentleman has asked I would answer affirmatively. I wish to say one thing further: There is great danger that these works are not being put in sufficiently substantial. I see that they are selling these lands so cheap that I believe it is well worth inquiring to know if these great companies that are building these works should not spend about, say, \$2, or even more, per acre, or on a project of 250,000 acres spend \$500,000 more, and charge the settlers \$2 more an acre, and not subject this Western country to the liability of a Johnstown flood in the future. But this investigation will now be made on account of this agitation. Now I am ready for any questions that any may desire to ask.

Mr. JOHNSON of South Carolina. What does the Government of the United States get out of this?

Mr. REEDER. The Government does not get anything out of these lands, except it gets a class of settlers who make the very best citizens in the world, where nobody could settle or live but for this irrigation.

Mr. COOPER of Pennsylvania. I would suggest to the gentleman that the Government gets the same out of this that it gets out of any other lands which are reclaimed. There is no difference.

Mr. GAINES of Tennessee. They will reclaim a lot of waste lands.

Mr. REEDER. Yes; the land is not worth anything as it is. I give this as a reason why I am not opposing the bill. My judgment is that this land will be used for the purpose of making settlement, and I would like, if I had the time, to describe some of these settlements. I will now yield to Mr. MANN two or three minutes. How much time does the gentleman desire?

Mr. MANN. Two minutes.

Mr. REEDER. I yield two minutes to the gentleman from Illinois.

Mr. MANN. Mr. Speaker, I do not propose to detain the House. It is very evident that the bill will be passed in the House, and yet I doubt very much the propriety of the measure. The Government has instituted this system of irrigating plants. It constructs its irrigation works at cost and the people who occupy the land subsequently are taxed practically only, or will be in the future, upon the actual cost of the plants. We have no means of knowing, or at least we do not know, what supervision is had by a State over these plants constructed by private contractors; we do not know how long these plants will continue in existence; we do not know how much profit the contractor obtains for himself; we do not know how much profit the cultivator of the soil may be compelled to pay to a private contractor; we do not know how far these grants will interfere with the Government's irrigation scheme; in short we have no knowledge whatever upon the subject before us to-day except that the Carey Act, passed some years ago, before the Government entered upon the scheme of irrigation, has been considered desirable, and because then considered desirable certain contractors now in the business of constructing these irrigation plants still consider it desirable, desirable not from the point of view of the public or the cultivator of the soil, but desirable from the point of view of the contractor who makes a profit out of it; and it seems to me that without knowledge upon the subject, without investigation by the Government officials, without a report from the Interior Department, we might well await such an investigation and report before action upon the bill.

Mr. REEDER. Mr. Speaker, I just want to say a word in regard to the matter brought to our attention by Mr. MANN. I have looked into this matter and I find that these lands are sold fully as cheaply as those under the irrigation projects of the Government. This fact brought the question to my mind as to the quality of work being done on the Carey Act lands. The price charged is the only reason I have to question the quality of the work done, and I believe that the matter should be looked into. It is a clear case, proving that private capital can do work cheaper than the Government can do it.

Mr. MANN. And that they can do cheaper work, you mean.

Mr. REEDER. I must say that is true; and I do believe, from what I have seen and learned of their prices for furnishing water to these lands, that we had better let this 1,000,000 acres go to Idaho, but the matter of the class of work done ought to be investigated, and I am going to assure you that the Interior Department intends to investigate the matter fully. [Applause.]

Mr. FRENCH. Mr. Speaker, how much time remains?

The SPEAKER pro tempore. The gentleman from Kansas [Mr. REEDER] has four minutes remaining and the gentleman from Idaho [Mr. FRENCH] has ten minutes remaining.

Mr. FRENCH. Mr. Speaker, I believe I am ready for a vote, unless somebody wants to ask a question.

The SPEAKER pro tempore. The question is on suspending the rules and passing the resolution as amended.

Mr. WILLIAMS. Mr. Speaker, in order to encourage legislation upon other subjects I demand the yeas and nays.

The yeas and nays were ordered.

Mr. PAYNE. Mr. Speaker, pending that I move that the House now take a recess until Monday at 11.30 a. m.

Mr. WILLIAMS. Mr. Speaker, upon that proposition I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken, and there were—yeas 131, nays 71, answered "present" 6, not voting 179, as follows:

## YEAS—131.

Acheson	Cushman	Hill, Conn.	Needham
Adair	Dalzell	Hinshaw	Nye
Alexander, Mo.	Davenport	Holliday	Olcott
Alexander, N. Y.	Dawes	Howard	Olmsted
Allen	Dawson	Howell, Utah	Parker, N. J.
Andrus	Denby	Howland	Parsons
Barchfeld	Douglas	Hubbard, W. Va.	Payne
Bartholdt	Driscoll	Huff	Perkins
Bonyng	Dwight	Humphrey, Wash.	Pray
Boyd	Ellis, Mo.	James, Addison D.	Reeder
Brownlow	Ellis, Oreg.	Jones, Wash.	Smith, Cal.
Brumm	Englebright	Kahn	Smith, Iowa
Burleigh	Esch	Kennedy, Iowa	Smith, Mich.
Burton, Ohio	Floyd	Kinkaid	Snapp
Calderhead	Focht	Kustermann	Southwick
Campbell	Fordney	Lafean	Sperry
Capron	Foster, Ind.	Lamb	Stafford
Cary	French	Landis	Steenerson
Caulfield	Fuller	Langley	Sterling
Chaney	Gaines, W. Va.	Lawrence	Sulloway
Chapman	Gardner, N. J.	Lindbergh	Tawney
Cocks, N. Y.	Goulden	Longworth	Taylor, Ohio
Cole	Graff	Lorimer	Tirrell
Conner	Graham	Lowden	Townsend
Cook, Colo.	Hale	McKinney	Volstead
Cooper, Pa.	Hall	Madden	Vreeland
Cooper, Tex.	Hamilton, Mich.	Madison	Waldo
Cooper, Wis.	Hammond	Mann	Washburn
Coudrey	Haskins	Miller	Wheeler
Cox, Ind.	Hawley	Mondell	Wilson, Ill.
Crawford	Hayes	Morse	Wood
Crumpacker	Henry, Conn.	Mouser	Woodyard
Currier	Higgins	Murdock	

## NAYS—71.

Aiken	Fitzgerald	Hughes, N. J.	Rainey
Ansberry	Foster, Ill.	Hull, Tenn.	Randell, Tex.
Ashbrook	Fulton	Johnson, Ky.	Robinson
Beall, Tex.	Gaines, Tenn.	Johnson, S. C.	Rothermel
Bell, Ga.	Garner	Kelher	Russell, Mg.
Booher	Gillespie	Kimball	Russell, Tex.
Bowers	Gordon	Kitchin, Claude	Ryan
Brodhead	Granger	Lloyd	Sabath
Burleson	Gregg	McHenry	Saunders
Burnett	Hackett	Macon	Sherwood
Candler	Hackney	Moon, Tenn.	Smith, Mo.
Clark, Mo.	Hamlin	Moore, Tex.	Sparkman
Craig	Hardy	Nicholls	Splight
Denver	Hay	O'Connell	Stanley
Dixon	Helm	Padgett	Tou Velle
Ellerbe	Henry, Tex.	Page	Watkins
Ferris	Hill, Miss.	Patterson	Williams
Finley	Houston	Pou	

## ANSWERED "PRESENT"—6.

Bede	Broussard	De Armond	Flood
Bennet, N. Y.	Carlin		

## NOT VOTING—179.

Adamson	Carter	Foulkrod	Hepburn
Ames	Clark, Fla.	Fowler	Hitchcock
Anthony	Clayton	Gardner, Mass.	Hobson
Bannon	Cockran	Gardner, Mich.	Howell, N. J.
Barclay	Cook, Pa.	Garrett	Hubbard, Iowa
Bartlett, Ga.	Cousins	Gilham	Hughes, W. Va.
Bartlett, Nev.	Cravens	Gill	Hull, Iowa
Bates	Darragh	Gillett	Humphreys, Miss.
Beale, Pa.	Davey, La.	Glass	Jackson
Bennett, Ky.	Davidson	Godwin	James, Ollie M.
Bingham	Davis, Minn.	Goebel	Jenkins
Birdsall	Diekema	Goldfogle	Jones, Va.
Boutell	Draper	Greene	Keifer
Bradley	Dunwell	Griggs	Kennedy, Ohio
Brantley	Durey	Gronna	Kipp
Brundidge	Edwards, Ga.	Haggott	Kitchin, Wm. W.
Burgess	Edwards, Ky.	Hamill	Knapp
Burke	Fairchild	Hamilton, Iowa	Knopf
Burton, Del.	Fassett	Harding	Knowland
Butler	Favrot	Hardwick	Lamar, Fla.
Byrd	Fornes	Harrison	Lamar, Mo.
Calder	Foss	Haugen	Lanning
Caldwell	Foster, Vt.	Hedin	Lassiter

Law	McLain	Pujo	Stevens, Minn.
Leake	McLaughlin, Mich.	Ransdell, La.	Sturgiss
Lee	McMillan	Rauch	Sulzer
Legare	McMorran	Reid	Talbott
Lenahan	Malby	Reynolds	Taylor, Ala.
Lever	Marshall	Rhinock	Thistlewood
Lewis	Maynard	Richardson	Thomas, N. C.
Lilley	Moon, Pa.	Riordan	Thomas, Ohio
Lindsay	Moore, Pa.	Roberts	Underwood
Littlefield	Mudd	Rodenberg	Wallace
Livingston	Murphy	Rucker	Wanger
Loud	Nelson	Scott	Watson
Loudenslager	Norris	Shackelford	Webb
Lovering	Overstreet	Sheppard	Weeks
McCall	Parker, S. Dak.	Sherley	Weems
McCreary	Pearre	Sherman	Welsse
McDermott	Peters	Sims	Wiley
McGavin	Pollard	Slayden	Willett
McGuire	Porter	Slemp	Wilson, Pa.
McKinlay, Cal.	Powers	Small	Wolf
McKinley, Ill.	Pratt	Smith, Tex.	Young
McLachlan, Cal.	Prince	Stephens, Tex.	

So the motion was agreed to.

The Clerk announced the following additional pairs:  
Until further notice:

Mr. LOUD with Mr. LEE.

Mr. MCCALL with Mr. McLAIN.

Mr. HULL of Iowa with Mr. RANDELL of Louisiana.

Mr. MCKINLEY of Illinois with Mr. RUCKER.

Mr. MORRIS with Mr. SHACKLEFORD.

Mr. SLEMP with Mr. SMITH of Texas.

Mr. YOUNG with Mr. UNDERWOOD.

Mr. KNOWLAND with Mr. LASSITER.

Mr. KEIFER with Mr. COCKRAN.

Mr. HUBBARD of Iowa with Mr. JONES of Virginia.

For balance of this day:

Mr. LOUDENSLAGER with Mr. HEFLIN.

Mr. BEDE with Mr. RICHARDSON.

Mr. JENKINS with Mr. CLAYTON.

For this vote:

Mr. WEEKS with Mr. HARDWICK.

Mr. DRAPER with Mr. HUMPHREYS of Mississippi.

Mr. DAVIS of Minnesota with Mr. SLAYDEN.

Mr. NELSON with Mr. LEGARE.

Mr. RODENBERG with Mr. HAMILTON of Iowa.

Mr. GARDNER of Michigan with Mr. SULZER.

Mr. HOWELL of New Jersey with Mr. STEPHENS of Texas.

Mr. LONGWORTH with Mr. SHERLEY.

Mr. KNAPP with Mr. LEAKE.

Mr. BARCLAY with Mr. BRANTLEY.

Mr. DIEKEMA with Mr. GILL.

Mr. DUREY with Mr. GODWIN.

Mr. FOSTER of Vermont with Mr. HARRISON.

Mr. GILLET with Mr. HITCHCOCK.

The result of the vote was announced as above recorded.

Mr. HACKETT. Mr. Speaker, I ask if there is a quorum?

The SPEAKER pro tempore. Does the gentleman ask if there is a quorum?

Mr. HACKETT. Yes.

The SPEAKER pro tempore. The Chair will announce that there is a splendid quorum.

Accordingly (at 6 o'clock and 11 minutes p. m.) the House took a recess until Monday, May 18, 1908, at 11.30 o'clock a. m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Acting Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination of Grand Marais Harbor, Minnesota (H. R. Doc. 939)—to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

A letter from the Secretary of the Treasury, transmitting copies of letters from the Auditor for the Navy Department submitting an estimate of appropriation for additional employees (H. R. Doc. 938)—to the Committee on Appropriations and ordered to be printed.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. MONDELL, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 21807) to authorize the Secretary of the Interior to certify certain lands to the State of Kansas, and for other purposes, reported the same with amendments, accompanied by a report (No. 1679), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the resolution of the Senate (S. R. 66) providing for additional lands for Wyoming under the provisions of the Carey Act, reported the same without amendment, accompanied by a report (No. 1680), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. TAWNEY, from the Committee on Appropriations, to which was referred the bill of the Senate (S. 4441) to acquire certain land in the District of Columbia as an addition to Rock Creek Park, reported the same without amendment, accompanied by a report (No. 1681), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. MONDELL, from the Committee on the Public Lands, to which was referred the bill of the Senate (S. 6190) authorizing a resurvey of certain townships in the State of Wyoming, reported the same with amendments, accompanied by a report (No. 1682), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. GILLET, from the Committee on Reform in the Civil Service, to which was referred the bill of the House (H. R. 17870) providing for the payment of salaries or wages to all Government employees who may be injured in the line of duty or may be required to absent themselves from duty as the result of quarantine measures, reported the same with amendments, accompanied by a report (No. 1683), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. SPIGHT, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill of the House (H. R. 19607) to authorize the Secretary of Commerce and Labor to cooperate, through the Bureau of the Coast and Geodetic Survey and the Bureau of Fisheries, with the fish commissioner of the State of North Carolina in making surveys of the waters of North Carolina where fishing is prohibited by law, reported the same with amendments, accompanied by a report (No. 1685), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CRAIG, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 443) granting certain lands belonging to the United States and situated in the State of Alabama to the State of Alabama for the use and benefit of the common schools of that State, reported the same without amendment, accompanied by a report (No. 1686), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

#### REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. YOUNG, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 21884) granting an annuity to Jennie Carroll and to Mabel H. Lazear, reported the same without amendment, accompanied by a report (No. 1676), which said bill and report were referred to the Private Calendar.

Mr. TAWNEY, from the Committee on Appropriations, to which was referred the bill of the House (H. R. 21927) to reimburse certain Departments of the Government for expenses incurred incident to the recent fire in Chelsea, Mass., and for other purposes, reported the same with amendments, accompanied by a report (No. 1677), which said bill and report were referred to the Private Calendar.

#### ADVERSE REPORT.

Under clause 2 of Rule XIII,

Mr. MONDELL, from the Committee on the Public Lands, to which was referred the resolution of the House (H. J. Res. 167) to prevent settlement upon and speculation in certain lands affected by contemplated suits on behalf of the United States, reported the same adversely accompanied by a report (No. 1678), which said resolution and report were laid on the table.

#### PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. TAWNEY, from the Committee on Appropriations: A bill (H. R. 21946) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1908, and for prior years, and for other purposes—to the Union Calendar.



By Mr. CURRIER: A bill (H. R. 21947) providing for the holding of a term of the United States circuit and district courts annually at Keene, N. H.—to the Committee on the Judiciary.

By Mr. BROWNLOW: A bill (H. R. 21948) to provide for the erection of a public building at Newport, Tenn.—to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 21949) to provide for the erection of a public building at Elizabethton, Tenn.—to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 21950) to provide for the erection of a public building at Rogersville, Tenn.—to the Committee on Public Buildings and Grounds.

By Mr. CLARK of Missouri: A bill (H. R. 21951) to amend the laws of the United States relating to patents in the interest of the originators of horticultural products—to the Committee on Patents.

By Mr. COCKS of New York (by request): A bill (H. R. 21952) to amend the national banking laws—to the Committee on Banking and Currency.

By Mr. FOCHT: A bill (H. R. 21953) to provide for the purchase of a site for a public building at Lewistown, Pa.—to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 21954) to provide for site and public building at Lewistown, Pa.—to the Committee on Public Buildings and Grounds.

By Mr. SLEMP: A bill (H. R. 21955) to provide for enlarging and improving the United States building at Abingdon, Va.—to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 21956) to provide for the erection of a public building at Pulaski, Va.—to the Committee on Public Buildings and Grounds.

By Mr. HAMILTON of Michigan: A bill (H. R. 21957) relating to affairs in the Territories—to the Committee on the Territories.

By Mr. CARY: A bill (H. R. 21958) to fix the requirements governing the receipt and preservation of messages of interstate telegraph and telephone companies—to the Committee on Interstate and Foreign Commerce.

By Mr. KAHN: Joint resolution (H. J. Res. 184) to allow the city and county of San Francisco to exchange land in the Yosemite National Park and adjacent national forest for portions of the Hetch Hetchy and Lake Eleanor reservoir sites, in said Yosemite National Park, for the purposes of a municipal water supply—to the Committee on the Public Lands.

By Mr. MANN: Joint resolution (H. J. Res. 185) concerning the granting of space for the International Congress on Tuberculosis—to the Committee on Public Buildings and Grounds.

By Mr. NORRIS: Resolution (H. Res. 417) amending the rules of the House of Representatives—to the Committee on Rules.

By Mr. McCALL: Resolution (H. Res. 418) providing extra compensation for the resolution and petition clerk of the House—to the Committee on Accounts.

Also, resolution (H. Res. 419) providing for the rearrangement of the seating capacity of the House of Representatives—to the Committee on the Library.

#### PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BYRD: A bill (H. R. 21959) granting an increase of pension to John C. Lee—to the Committee on Pensions.

By Mr. CALDERHEAD: A bill (H. R. 21960) for the relief of B. D. Hutchinson—to the Committee on War Claims.

Also, a bill (H. R. 21961) granting a pension to Martha Dalrymple—to the Committee on Invalid Pensions.

By Mr. CRAWFORD: A bill (H. R. 21962) granting a pension to James H. Arwood—to the Committee on Pensions.

By Mr. DIXON: A bill (H. R. 21963) to correct the military record of John Chapin—to the Committee on Military Affairs.

By Mr. GARDNER of New Jersey: A bill (H. R. 21964) granting an increase of pension to Benjamin P. Bussom—to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 21965) granting an increase of pension to K. Shannon Taylor—to the Committee on Invalid Pensions.

By Mr. HEPBURN: A bill (H. R. 21966) granting a pension to Adalaide L. Curry—to the Committee on Invalid Pensions.

Also, a bill (H. R. 21967) granting an increase of pension to John C. Brady—to the Committee on Invalid Pensions.

By Mr. HOUSTON: A bill (H. R. 21968) granting an increase of pension to Thomas J. Bennett—to the Committee on Invalid Pensions.

By Mr. LAFEAN (by request): A bill (H. R. 21969) to provide for increase of pensions in certain cases—to the Committee on Pensions.

Also, a bill (H. R. 21970) to correct the military record of T. Abram Hetrick—to the Committee on Military Affairs.

Also, a bill (H. R. 21971) granting a pension to Rosana Wavell—to the Committee on Invalid Pensions.

By Mr. LANGLEY: A bill (H. R. 21972) for the relief of the heirs at law of George Boone, deceased—to the Committee on War Claims.

By Mr. LEVER: A bill (H. R. 21973) for the relief of the University of South Carolina—to the Committee on War Claims.

By Mr. MCKINLEY of Illinois: A bill (H. R. 21974) granting an increase of pension to C. W. Brown—to the Committee on Invalid Pensions.

By Mr. PADGETT: A bill (H. R. 21975) for the relief of the legal representatives of W. B. Long, deceased—to the Committee on War Claims.

By Mr. RYAN: A bill (H. R. 21976) granting an increase of pension to George R. Belcher—to the Committee on Invalid Pensions.

Also, a bill (H. R. 21977) granting an increase of pension to George M. Smith—to the Committee on Invalid Pensions.

By Mr. SMITH of Michigan: A bill (H. R. 21978) granting an increase of pension to Frank Chase—to the Committee on Pensions.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ACHESON: Petition of M. B. Steczynski, favoring the Bates resolution of sympathy for the Prussian Poles—to the Committee on Foreign Affairs.

Also, petition of citizens of Brownsville, Pa., for amendment to Sherman antitrust law, for the Pearre bill regulating injunctions, employers' liability bill, and national eight-hour law—to the Committee on the Judiciary.

Also, petition of C. C. Strange, delegate of Division No. 464, Brotherhood of Locomotive Engineers, favoring the Rodenberg-Hemenway-Graff ash-pan bill—to the Committee on Interstate and Foreign Commerce.

By Mr. BENNET of New York: Petition of New York Board of Trade and Transportation, favoring legislation to secure proper regulation for length of tows and length of hawsers between towing vessels—to the Committee on the Merchant Marine and Fisheries.

By Mr. BURKE: Petition of International Brotherhood of Stationary Firemen, of Pittsburgh, favoring H. R. 16366, to regulate wages of stationary firemen in public buildings—to the Committee on Expenditures on Public Buildings.

Also, petition of Amalgamated Sheet Metal Workers' Union, of Pittsburgh, for amendment to the Sherman antitrust law, and for Pearre bill, employers' liability bill, and eight-hour law—to the Committee on the Judiciary.

Also, petition of Master Builders' Exchange of Philadelphia, against H. R. 15651, the Hepburn amendment to the Sherman antitrust bill—to the Committee on the Judiciary.

Also, petition of George W. Eberhardt & Co., favoring Senate bill 6367 and H. R. 20311—to the Committee on Ways and Means.

Also, petition of Wilmer Atkinson, for a postal savings bank law—to the Committee on the Post-Office and Post-Roads.

Also, petition of Craft & Allen Company, of Philadelphia, and Wilson Snyder Manufacturing Company, against anti-injunction legislation—to the Committee on the Judiciary.

Also, petition of I. Ollendorff Company, favoring financial legislation that will create more confidence in our financial institutions—to the Committee on Banking and Currency.

Also, petition of Pennsylvania Association of Retail Hardware Merchants, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of Thomas Carlin's Sons Company, of Allegheny, Pa., against the Sterling bill (H. R. 21358) and the Payne bill (H. R. 21359)—to the Committee on the Judiciary.

Also, petition of American Bison Society, favoring Senator Dixon's bill for a national bison range and herd on the Flat-head Reservation—to the Committee on Agriculture.

By Mr. BUTLER: Petition of citizens of the Seventh Pennsylvania District, for concurrent resolution 28, against atrocities of the Russian Government—to the Committee on Foreign Affairs.

By Mr. CALDERHEAD: Petition of Goldsmith Silver Company, favoring the Tawney anticoupon bill—to the Committee on Ways and Means.

Also, petition of the United Bohemian Building and Loan Association, for amendment of H. R. 18525 so as to exempt building and loan associations that make loans to their members only—to the Committee on Ways and Means.

Also, petition of Galena Commercial Club, of Galena, Kans., favoring the Huff bill establishing a Bureau of Mines—to the Committee on Mines and Mining.

Also, petition of Pleasant View quarterly meeting of Friends' Church, against bill before Congress providing for rifle practice and against extension of the Navy—to the Committee on Naval Affairs.

Also, petition of General Federation of Women's Clubs of Enterprise, Kans., favoring bill to investigate and develop method of treatment of tuberculosis (S. 5117 and H. R. 18445)—to the Committee on Interstate and Foreign Commerce.

By Mr. CALDWELL: Petitions of Local Union No. 90, Brotherhood of Painters, Decorators, and Paper Hangers of America, and Local Union No. 693, United Mine Workers of America, favoring bills affecting labor, amendment to Sherman antitrust law, the Pearre bill, employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

By Mr. COOPER of Texas: Petitions of J. W. Lee, of Port Arthur; citizens of Laredo; H. A. Muedeking, of Beaumont; Gust Berting and other citizens of Port Arthur; citizens of San Antonio; W. S. Tyner and citizens of Port Arthur; citizens of Marshall, and Robert Ramey and others, of Beaumont, all in the State of Texas, favoring eight-hour law, employers' liability bill, anti-injunction bill, and amendment to Sherman antitrust law—to the Committee on the Judiciary.

By Mr. COX of Indiana: Petition of Union Grange, of Valley City, Ind., favoring a national highways commission and appropriation for Federal aid in construction and improvement of highways (H. R. 15837)—to the Committee on Agriculture.

By Mr. CURRIER: Petitions of members of the bar of Windham County, Vt., and Cheshire County, N. H., for enactment of a law providing for holding of United States circuit and district courts at Keene, N. H.—to the Committee on the Judiciary.

By Mr. DAWES: Petition of citizens of Cambridge, Ohio, favoring eight-hour law, employers' liability bill, anti-injunction bill, and amendment to Sherman antitrust law—to the Committee on the Judiciary.

Also, petition of citizens of Fifteenth Ohio District, for concurrent resolution 28, against Russian atrocities—to the Committee on Foreign Affairs.

By Mr. DIXON: Petition of City Club of Chicago, for forest reservations in White Mountains and Southern Appalachian Mountains—to the Committee on Agriculture.

Also, petition of Cincinnati Clearing House, against the Aldrich currency bill—to the Committee on Banking and Currency.

Also, petition of Thomas S. Wolfe and others, of Madison; C. P. Myers, of North Vernon, and Richard Gellker and others, of Columbus, all in the State of Indiana, favoring bills affecting labor, amendment to Sherman antitrust law, the Pearre bill, employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

Also, petition of Madison (Ind.) Knights of Columbus, for legislation making October 12 a legal holiday—to the Committee on the Judiciary.

By Mr. DRAPER: Petition of Collar and Shirt Manufacturers' Association, against anti-injunction legislation—to the Committee on the Judiciary.

By Mr. DRISCOLL: Petition of Painters' Union and Local No. 143, United Garment Workers, of Syracuse, N. Y., for the enactment of the bill (H. R. 20584) amending the Sherman antitrust law; H. R. 94, to define the injunction power and restrain its abuse; for the enactment of an employers' liability law, and for the extension of the provisions of the eight-hour law—to the Committee on the Judiciary.

By Mr. FERRIS: Memorial of Oklahoma legislature, for constitutional amendment (H. J. Res. 177)—to the Committee on the Judiciary.

Also, petitions of citizens of Woodland County and Shawnee, Okla., and Norman, Kans., for amendments to the Constitution—to the Committee on the Judiciary.

By Mr. FOSTER of Illinois: Petition of United Mine Workers of America, favoring H. R. 20584 amendment to Sherman antitrust law, and for Pearre bill, employers' liability bill, and eight-hour law—to the Committee on the Judiciary.

By Mr. FULLER: Petition of citizens of Genoa, Ill., against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Rockford, Ill., for exemption of labor unions from the operation of the Sherman antitrust law, for the Pearre bill regulating injunctions, for the employers' liability act, and for the eight-hour law—to the Committee on the Judiciary.

Also, petition of Illinois Audubon Society, for legislation conserving national resources—to the Committee on Agriculture.

Also, petition of Dr. T. F. Henry, of Streator, Ill., for S. 4432, for betterment of the Dental Corps of the Army—to the Committee on Military Affairs.

Also, petition of Utica (Ill.) Hydraulic Cement Company, against anti-injunction legislation—to the Committee on the Judiciary.

Also, petition of City Club of Chicago, for forest reservations in White Mountains and Southern Appalachian Mountains—to the Committee on Agriculture.

By Mr. GARDNER of Massachusetts: Petition of working people of Manchester, Mass., favoring eight-hour law, employers' liability law, anti-injunction bill, and amendment to Sherman antitrust law—to the Committee on the Judiciary.

Also, petition of Civic League of Salem, for forest reservations in White Mountains and Southern Appalachian Mountains—to the Committee on Agriculture.

By Mr. GRAFF: Petitions of laboring men and Local No. 707, United Mine Workers of America, of Peoria, Ill., for legislation to modify the antitrust law, to regulate and limit the issuance of injunctions, for employers' liability, and for the extension of the eight-hour law—to the Committee on the Judiciary.

By Mr. GRAHAM: Petitions of many citizens of Pittsburgh; John Rieger, of Brackenridge; Henry Kunkel, of Sharpsburg, and Gebhart Sanner, of Pittsburgh, all in the State of Pennsylvania, for amendment to Sherman antitrust law and for the Pearre bill, employers' liability bill, and eight-hour law—to the Committee on the Judiciary.

Also, petition of American Bison Society, favoring Senator Dixon's bill for a national bison range and herd on the Flat-head Reservation—to the Committee on Agriculture.

Also, petition of Pennsylvania retail hardware merchants, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of Wilmer Atkinson, favoring postal savings bank—to the Committee on the Post-Office and Post-Roads.

Also, petition of Croft & Allen, of Philadelphia, against any anti-injunction law—to the Committee on the Judiciary.

Also, petitions of O'Connell & Cashman and F. C. Morrill, of New York, for relief for heirs of victims of the *General Slocum* disaster—to the Committee on Claims.

Also, petition of Master Builders' Exchange of Philadelphia, against H. R. 15651 (Hepburn amendment to the Sherman antitrust act)—to the Committee on the Judiciary.

Also, petition of Thomas Carlin's Sons' Company, against H. R. 21358 (Sterling bill) and H. R. 21359 (Payne bill), anti-injunction bills—to the Committee on the Judiciary.

By Mr. HALL: Petition of A. M. Urquhart, of Huron, S. Dak., for the Rodenburg anti-injunction bill and Graff ash-pan bill (H. R. 17137 and H. R. 19795)—to the Committee on the Judiciary.

By Mr. HENRY of Connecticut: Petitions of citizens of Hartford and Bristol, Conn., for the enactment of the bill (H. R. 20584) amending the Sherman antitrust law; H. R. 94, to define the injunction power and restrain its abuse; for the enactment of an employers' liability law, and for the extension of the provisions of the eight-hour law—to the Committee on the Judiciary.

By Mr. HIGGINS: Petition for S. 5117 and H. R. 18445, relative to methods of treatment of tuberculosis—to the Committee on Interstate and Foreign Commerce.

By Mr. HOWELL of New Jersey: Petition of citizens of New Brunswick, N. J., for amendment to Sherman antitrust law, and for Pearre bill, employers' liability bill, and eight-hour law—to the Committee on the Judiciary.

By Mr. HUMPHREY of Washington: Petitions of many citizens and labor unions of Seattle and other cities and towns of Washington, for exemption of labor unions from the operations of the Sherman antitrust law, for the Pearre bill regulating injunctions, for the employers' liability act, and for the eight-hour law—to the Committee on the Judiciary.

By Mr. KELIHER: Petitions of Union No. 119, United Garment Workers of America, and employees of New York, New Haven and Hartford Railway, for exemption of labor unions from the operations of the Sherman antitrust law, for the Pearre bill regulating injunctions, for the employers' liability



act, and for the eight-hour law—to the Committee on the Judiciary.

By Mr. LANING: Petitions of John Fulmer and others, of Mansfield, Ohio, and T. H. Nash and others, of Norwalk, Ohio, for amendment to Sherman antitrust law, and for the Pearre bill, employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

Also, petitions of Ira F. France and others and J. E. Brown and others, of Mansfield, Ohio, in favor of H. R. 15837, for a national highways commission and appropriation giving Federal aid to construction and maintenance of public highways—to the Committee on Agriculture.

Also, petitions of Emil Alderman and Arthur Baylau, of Mansfield, Ohio, against any amendment or treaty provision to extend right of naturalization, and for a more stringent immigration law, etc.—to the Committee on Immigration and Naturalization.

By Mr. LINDBERGH: Petitions of William Baumgarten, Val Faust, Henry Anderson, William Baumgarten, and F. E. Kinsmiller, of Brainerd, Minn., for amendment to Sherman antitrust law, and for the Pearre bill, employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

By Mr. LORIMER: Petitions of W. E. Stockton, delegate, Division No. 294, of Chicago; William Arnold, Division No. 60, of Rock Island; C. M. Smith, delegate, Division No. 241, and W. H. Mulvey, representative of Division No. 253, of Chicago, Brotherhood of Locomotive Engineers, favoring the Rodenberg-Hemenway-Graff safety ash-pan bill (H. R. 17137 and 19795)—to the Committee on the Judiciary.

By Mr. LOUD: Petition of Local Union No. 25, International Longshoremen's Association, of Bay City, for legislation and modification of the Sherman antitrust law, for employers' liability law, for limitation on injunction, and for the extension of the eight-hour law—to the Committee on the Judiciary.

By Mr. LOVERING: Petition of M. E. Wiles and others, of Brewster, Mass., in favor of H. R. 15837, for a national highways commission and appropriation giving Federal aid to construction and maintenance of public highways—to the Committee on Agriculture.

By Mr. MANN: Petition of Trades League of Philadelphia, favoring the Fowler currency-commission bill—to the Committee on Banking and Currency.

Also, petitions of citizens of La Salle and Chicago, Ill., favoring bills affecting labor, amendment to Sherman antitrust law, the Pearre bill, employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

By Mr. NICHOLLS: Petition of citizens of Scranton, Pa., for amendment to the Sherman antitrust law, and for Pearre bill, employers' liability bill, and eight-hour law—to the Committee on the Judiciary.

By Mr. PETERS: Petitions of E. A. Maddacks and others and Charles V. Cullen and others, of Boston, Mass., for legislation to modify the Sherman antitrust law, to establish employers' liability, to regulate the issuance of injunctions, and to extend the eight-hour law—to the Committee on the Judiciary.

By Mr. SMITH of Iowa: Petitions of labor organizations of Council Bluffs and Missouri Valley, Iowa, for the amendment to the Sherman antitrust law known as the "Wilson bill" (H. R. 20584), for the Pearre bill (H. R. 94), the employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

By Mr. TAYLOR of Ohio: Petitions of Carpenters' Union, sundry citizens, and Iron Molders' Union, all of Columbus, Ohio, for the exemption of labor unions from the operations of the Sherman antitrust law, for the Pearre bill regulating injunctions, for the employers' liability act, and for the eight-hour law—to the Committee on the Judiciary.

Also, petition of J. W. McGuire, vice-master Brotherhood of Railway Trainmen, for the Rodenberg anti-injunction bill and Hemenway-Graff safety-appliance bill—to the Committee on the Judiciary.

By Mr. VOLSTEAD: Petition of Twin City Foundrymen's Association, against anti-injunction legislation—to the Committee on the Judiciary.

By Mr. WILSON of Pennsylvania: Petition of Boston Branch, No. 2, National League of Navy-Yards and Naval Stations, Arsenals and Gun Factories, for S. 5555 and H. R. 16734, relating to compensation of civilian Government employees for injury in line of service—to the Committee on Naval Affairs.

Also, petition of Lumber City Lodge, No. 524, Brotherhood of Railway Trainmen, of Galetton, Pa., for amendment to Sherman antitrust law and for the Pearre bill, employers' liability bill, and the eight-hour bill—to the Committee on the Judiciary.

## SENATE.

MONDAY, May 18, 1908.

Prayer by Rev. ULYSSES G. B. PIERCE, of the city of Washington.

The Secretary proceeded to read the Journal of the proceedings of Saturday last, when, on request of Mr. KEAN, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

## ESTIMATES OF APPROPRIATION.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Acting Secretary of the Navy submitting a supplemental estimate of deficiency in the appropriation for pay of the Navy for the fiscal year ended June 30, 1908, to meet certain increases in the pay of officers and enlisted men of the Navy, etc., \$457,363.50, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from assistant treasurer of the United States at St. Louis, relative to the urgent need in his office of one additional day watchman and coin counter at \$900 and one night watchman at \$720, and recommending that the provision be included in the general deficiency appropriation bill, etc., which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of the Navy submitting an estimate of appropriation for inclusion in the general deficiency appropriation bill for prizes for economy in the expenditure for coal, to be awarded by the Secretary of the Navy, \$2,500, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Acting Surgeon-General, Public Health and Marine-Hospital Service, submitting the claim of the Southern Pacific Company for damages amounting to \$1,517.08 inflicted upon the ferry steamer *Encinal*, at San Francisco, Cal., by the quarantine steamer *Argonaut*, in collision September 10, 1907, etc., which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, presenting certain estimates of appropriations and requesting that they be included in an appropriation bill and that the money provided therein may be available during the coming fiscal year, contingent expenses, Treasury Department, rent of buildings, 1909, \$13,000; shelving and transferring records, etc., \$10,500, etc., which was referred to the Committee on Appropriations and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, requesting that an increase be made in the estimate of appropriations for the coming fiscal year for the purchase of horses and wagons for office and mail service, Treasury Department, to be used only for official purposes, etc., from \$3,500 to \$5,000, which was referred to the Committee on Appropriations and ordered to be printed.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the joint resolution (S. R. 90) to amend an act authorizing the construction of bridges across navigable waters, etc.

The message also announced that the House had passed the bill (S. 4186) creating in the State of Minnesota a national forest consisting of certain described lands, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 21844. An act granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment; and

H. R. 21899. An act providing for the appointment of an Inland Waterways Commission with the view to the improvement of the inland waterways of the United States.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to